

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,)
4 Plaintiff,) 04CR00706 (FB)
5)
6 V.) United States Courthouse
7) Brooklyn, New York
8 DAMION HARDY AND ARRON)
GRANTON,) THURSDAY, APRIL 23, 2015
Defendants.) 10:00 a.m.
9 _____)

10 TRANSCRIPT OF CRIMINAL CAUSE FOR JURY TRIAL
11 BEFORE THE HONORABLE FREDERIC BLOCK
12 UNITED STATES SENIOR DISTRICT JUDGE

13 APPEARANCES:

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12 Proceedings recorded by mechanical stenography, transcript
13 produced by Computer-Assisted Transcript.

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1 (Outside the presence of the jury.)

2 THE CLERK: Criminal Cause on Trial, United States
3 of America versus Damion Hardy and Aaron Granton. All counsel
4 and parties are present.

5 MR. RUHNKE: Your Honor, can I address a brief issue
6 before we start?

7 THE COURT: Okay.

8 MR. RUHNKE: I don't know if your mike is on.

9 THE COURT: It's on.

10 MR. RUHNKE: Okay. I just want to be assured of the
11 position of -- or the status of the Rule 29 motion in this
12 case. The Court has deemed that we made a Rule 29 motion at
13 the end of the government's case. Did the Court deny it or
14 defer decision?

15 THE COURT: We moved a little quickly, because I was
16 anxious to get the jurors out by 5:00 o'clock. I'm going to
17 deny it.

18 MR. RUHNKE: Okay.

19 THE COURT: But I'm not going to preclude you from
20 putting on the record that what you wish to do. But, you
21 know, even if I were to ultimately agree with whatever you're
22 going to say, I would still give it to the jury.

23 MR. RUHNKE: Okay. So you would defer to the jury,
24 in any event?

25 THE COURT: I guess I can say I can reserve

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1 decision. That might be the better way say do it.

2 MR. RUHNKE: Okay. And, also, that the motion is
3 now renewed, prior to the case going to the jury.

4 THE COURT: Motion is renewed, and I'm reserving
5 decision on your motion.

6 MR. RUHNKE: So all arguments are preserved. Thank
7 you, your Honor.

8 THE COURT: I see the government's concerned about
9 witnesses needing to be available. I thought I covered the
10 dynamics pretty well. I think one of the cases I had on the
11 9th Circuit, that issue was before the court, and, you know, a
12 federal defender argued effectively when the judge said that,
13 the defendant had access to the witnesses as well, the
14 argument that violated the Constitution right that the
15 defendant had not to call witnesses, so we can talk about
16 that.

17 And so just give me a general idea -- I said you're
18 not under any time constraints, but to be practical -- sort of
19 the best realistic sense you have as to how long you think
20 you're going to be, Ms. Dayananda?

21 MS. DAYANANDA: Probably an hour and a half.

22 THE COURT: You're not limited to that, and if you
23 want to take a break in the middle of it, you let me know.
24 And if you go beyond an hour and a half, you may. You know,
25 give us a little bit of a ten-minute break.

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1 MS. DAYANANDA: Okay. Thank you.

2 THE COURT: Mr. Beecher, would you like to, perhaps,
3 chime in?

4 MR. BEECHER: I'm not chiming in on how long mine
5 will be, because mine will be zero. It's Mr. Herman.

6 THE COURT: Mr. Herman, my apologies. I thought you
7 were doing summations. How long do you anticipate?

8 MR. HERMAN: Well, more than an hour, less than two
9 hours.

10 THE COURT: And our distinguished senior citizen,
11 whose been doing this for 40 years.

12 MR. RUHNKE: I sorry, your Honor, are you addressing
13 me?

14 THE COURT: Just want to let you know I listen to
15 everything you say.

16 MR. RUHNKE: Objection. Hour and a half.

17 THE COURT: Okay. So, you know, we'll see how it
18 goes. We may be able to start to give the jury the rest of
19 the charge today.

20 Mr. Amatruda, your rebuttal isn't going to take more
21 than four hours, is it?

22 MR. AMATRUDA: I hope not.

23 (In the presence of the jury.)

24 THE CLERK: You can all be seated.

25 THE COURT: All right. Members of the jury, your

Summation by Ms. Dayananda

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1 record is still intact. You were perfect, just like the
2 New York Mets. So we now are approaching that point where
3 we're going to have concluding remarks. I told you about it
4 in the beginning. I'll remind you that what the lawyers say
5 is not evidence. The facts that are referred to in the
6 concluding remarks by counsel, you understand that you're the
7 fact-finder. Let's see how it goes. Ms. Dayananda will be
8 the first runner up.

9 SUMMATIONS BY MS. DAYANANDA

10 MS. DAYANANDA: Thank you, your Honor.

11 Michael Colon, Darryl Baum, James Hamilton, Ivery
12 Davis, Johan Camitz, Troy Singleton, and Tyrone Baum: During
13 this trial, you've been introduced to each of these victims,
14 through their last conversations and their last moments on
15 earth: Michael Colon, standing in front of the Empire Roller
16 Rink, waiting for his shift to end; Darryl Baum, talking to
17 friends on the corner of Marcy and Quincy; James Hamilton
18 enjoying a drink at his newly opened restaurant; Ivery Davis
19 sitting in his Range Rover in front of a club in Manhattan;
20 Johan Camitz walking along Spring Street with a woman he just
21 met; Troy Singleton entering his car after a night out at a
22 club; and Tyrone Baum working on a construction site on
23 Malcolm X Boulevard.

24 Each of these victims are dead because of the
25 actions of those two defendants. Theresa Gregory and Markell

Summation by Ms. Dayananda

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1 Kennedy, also victims of the callous kill order of Damion
2 Hardy; seven murders, two attempted murders, a kidnapping, an
3 attempted robbery, drug distribution. In the last few weeks,
4 you've entered the cold, ruthless and menacing world of Damion
5 Hardy, a world of violence created by Damion Hardy and carried
6 out by Aaron Granton.

7 At the beginning of the trial, Ms. Paul described to
8 you the violent acts of both these defendants and that of the
9 Cash Money Brothers. Now, we have proven each of those acts
10 to you beyond a reasonable doubt. We've proven it through
11 eyewitness testimony, every day people who were at the scenes
12 to witness these horrific acts; law enforcement testimony from
13 patrol officers, from crime scene detectives, to ballistic
14 detectives.

15 You've seen the photos of the crime scenes. You've
16 seen the bullets from the guns fired by the defendant, Aaron
17 Granton, and other members of Cash Money Brothers. You've
18 seen the drug evidence, and you've seen where Cash Money
19 Brothers operated, and you've also heard from members of the
20 organization itself. Each of those witnesses took the stand
21 and described to you in great detail the crimes they committed
22 with both those defendants; witness after witness, crime after
23 crime, all pointing to defendants' overwhelming guilt.

24 But what's clear from the evidence that's been
25 presented to you is that over a ten-year period both these

Summation by Ms. Dayananda

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1 defendants wreaked havoc in the Bed-Stuy community of
2 Lafayette Gardens and beyond. The ripple effects of the
3 defendants' acts extend to a community sieged by violence and
4 to families destroyed by grief. In the beginning of this
5 trial, Mr. Beecher mentioned only one tragedy in this case,
6 that of Johan Camitz. But, ladies and gentlemen, let's be
7 clear, over the last few weeks you've experienced violent act
8 after violent act, and one thing is for certain, tragedy
9 abounds throughout this case; and now it's time, finally, for
10 these two defendants to be held accountable for these crimes.

11 During the next hour or so, we're going to walk
12 through what these crimes are and how the government has
13 proven them. First, for all their criminal activity, the
14 defendants have been charged with a racketeering enterprise.
15 Damion Hardy, as the leader of this criminal enterprise has
16 been charged in a 24-count indictment. He's been charged with
17 racketeering, drug distribution, the murder of Michael Colon,
18 Darryl Baum, James Hamilton, Ivery Davis, Tyrone Baum and
19 Johan Camitz. He's also been charged in kidnapping and
20 attempted robbery of Ashabudeen Sakoor. Damion Hardy is also
21 charged with racketeering acts of the attempted murder of
22 Theresa Gregory and the attempted murder of Markell Kennedy.

23 Aaron Granton has been charged with racketeering,
24 drug distribution, the murder of Darryl Baum, James Hamilton,
25 Ivery Davis, and Johan Camitz. He's also been charged in

Summation by Ms. Dayananda

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1 separate count for the murder for hire of Troy Hamilton. That
2 briefly describes the charges against both defendants. When
3 we walk through the evidence this morning, there's one thing
4 to remember: There's no real dispute that these murders
5 happened. I suspect no one from the defense is going to stand
6 up and say none of this happened, so it's important you focus
7 on what the issue will be when you go back to the jury room to
8 deliberate.

9 For Mr. Hardy, the issue is was he a participant?
10 Under the law, it doesn't matter if he's never on the scene or
11 doesn't hold a gun. The question is did he aide, solicit and
12 importune (phonetic). At the end of the day yesterday,
13 Judge Block instructed you on this concept of aiding and
14 abetting, and really what it boils down to is he helping?
15 Ladies and gentlemen, throughout this trial you've learned
16 that he is the leader of this organization; he is the impetus.
17 If World did not put out the order, none of these acts would
18 have happened. For Mr. Granton, for each of the murders acts,
19 again, was he a participant? For Mr. Granton, it's clear the
20 evidence has proven he is the shooter for each of the murders
21 that he's been charged with. That's what you need to think
22 about, those two focussed issues.

23 Now, let's talk about how we prove those charges.
24 First, as Judge Block told you when you took your oath, he is
25 the department of law, you're the department of fact. He will

Summation by Ms. Dayananda

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1 instruct you again on the law at the end of all the summations
2 this morning. But as the department of fact, it's your
3 determination. It's your job to evaluate the credibility of
4 the government's witnesses. What does that actually mean?
5 Evaluating credibility is something we do every single day.
6 It's not magic. Whether you speak to your spouse, your child,
7 your coworker. When someone tells you something, you
8 automatically ask yourselves does that make sense? Does it
9 comport with logic? Is it supported by other evidence? You
10 may not even realize that that's what you're doing, but that's
11 what you do every single day. That's exactly what we're
12 asking you to do with the government's witnesses.

13 Now, be clear, you've heard some challenging
14 testimony throughout this trial. You've heard from murders,
15 from fraudsters, from drug dealers, but evaluating the
16 credibility of people who have committed crimes doesn't
17 change. It's the same thing. You ask yourself, does it make
18 sense? Does it comport with logic? Is it supported by other
19 evidence? That's what you have to think about when you walk
20 through evidence this morning.

21 Also consider we're not asking you to rely on just
22 the mere word of these witnesses. I suspect the defense
23 attorneys will spend some time on the cooperation agreement.
24 And should you consider it? Absolutely. But also use your
25 common sense when you evaluate credibility. And remember it's

Summation by Ms. Dayananda

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1 not their word alone we're asking you to rely on. The next
2 hour or so will show you how each of the witnesses' testimony
3 is corroborated. The question is not do you like them, not if
4 you trust them with a stock tip, not if you want them to water
5 your plants over the weekend. It's a narrow question. Do you
6 believe them? If you believe the government's witnesses, you
7 must convict. It's that simple.

8 We're not required to prove this case in a certain
9 manner. You haven't seen fingerprint evidence. You haven't
10 seen DNA evidence. But you've heard from the individuals who
11 committed the crimes with these two defendants. And remember
12 we didn't pick these witnesses. Damion Hardy and Aaron
13 Granton picked these witnesses. They chose these witnesses,
14 and we have to put these witnesses on the stand to prove this
15 case to you. We don't have the luxury of choosing the
16 witnesses who have college degrees, or no criminal records, or
17 are blessed with the gift to be articulate. When you
18 prosecute a violent gang, your witnesses are violent gang
19 members. It's just that simple.

20 It's important to remember that each of the
21 cooperating witnesses who took the stand offered a unique
22 perspective into the minds of both defendants. Why? Because
23 they're members of the criminal enterprise. If we take a look
24 at the head shot board of just those who have testified,
25 you'll see there's a lot less people on the board now. Think

Summation by Ms. Dayananda

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1 about who you met during the course of this trial.

2 And I'm going to use nicknames, and I'll use
3 nicknames of the defendants as well, as we go through this.
4 Allen Bryant, "Boo." You met him on the first or second day
5 of this trial. Allen Bryant grew up with Damion Hardy, since
6 the age of 12. He was one of the original members of Cash
7 Money Brothers. Yesterday you met "Thor," Dwayne Myers, the
8 best friend of Damion Hardy's brother Wise. He sees Damion
9 Hardy as his best friend's younger brother, but he was also a
10 crucial member of cash Monday brothers. Robert Footman,
11 "Troub" or "Trouble," he grew up with Aaron Granton in Coney
12 Island. They both moved to Lafayette Gardens together.

13 Troub told you, "E-Bay's like my brother."
14 DJ McMillan, a worker, a hustler, a bagger for cash Monday
15 brothers. "Sambo," again, one of Wise's friends, but also a
16 crucial member of Cash Money Brothers. "Plum," Uasia Davis,
17 dated World, has his tattoo on her leg, also a worker, a
18 hustler, for cash Monday brothers. Shelby Henderson, "Moo,"
19 you met him, also a member of Cash Money Brothers, as an
20 associate, and, as you know, it makes sense. Why?

21 You met Shelby Henderson. He was basically hanging
22 out with Cash Money Brothers, getting free food, getting free
23 housing, but still had an insider's view of the criminal
24 activity and participated in that criminal activity. Finally,
25 Zareh Sarkissian, "Puff," a later member of Cash Money

Summation by Ms. Dayananda

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1 Brothers, met the group through Taz but also committed crimes
2 with them.

3 You met each of those individuals because of those
4 two defendants. Evaluate what they told you based upon their
5 role in the crew, because, if you think about it, what they
6 told you makes sense. DJ McMillan didn't have any knowledge
7 about the murders. He's a low-level worker and bagger. He
8 tried to steal from the organization. Of course, he wasn't
9 going to be trusted with information concerning the murders.
10 Boo, one of World's best friends, he had insider knowledge
11 about what was going on; same goes for Thor, and the same goes
12 for Troub, as a confidant of Aaron Granton. That's who you
13 heard from, as well as other witnesses. These are the members
14 of the Cash Money Brothers enterprise.

15 So let's start with the actual counts we have to
16 prove here. Count One is charged with racketeering. And why?
17 Because this is a violent gang, and that is the charge that
18 applies, because that's what World's crew was. Cash Money
19 Brothers, a violent gang that sold drugs, committed crimes all
20 over a period of time. The period of time alleged that we
21 have to prove is from August 19th of '91 until 2004. What we
22 have here is a timeline of, essentially, the criminal acts --

23 MS. BARRETT: Your Honor, we can't see that.

24 THE COURT: You need to see it only once, I guess.

25 MS. BARRETT: We have not been shown those.

Summation by Ms. Dayananda

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1 THE COURT: Feel free to move around, if you'd like,
2 and walk around, and look at it. I don't know any other way
3 for you see, frankly.

4 MS. DAYANANDA: Is that better?

5 MS. BARRETT: That's better.

6 MS. DAYANANDA: So if you look at that timeline,
7 ladies and gentlemen, that's essentially what we're going to
8 be going through over the next hour or so. But it shows you
9 that this began in '91 and ended in 2004. That's the timeline
10 of the racketeering enterprise.

11 There are five elements that we have to prove to
12 prove the count of racketeering. We have a multimedia
13 presentation going on here. It's going to be amazing. Now
14 you see on the screen here the five elements that we have to
15 prove. First the enterprise existed. Now, what does that
16 mean? In this case, the enterprise is the Cash Money
17 Brothers, a violent street gang that sold drugs, dominated
18 Lafayette Gardens. There's overwhelming evidence that's been
19 presented to you that proves the existence of this enterprise.
20 They existed to make money through drug-dealing, robberies,
21 and they did whatever it took to keep the enterprise going,
22 including, as you know, several acts of violence.

23 The second element is what we stipulated to, the
24 selling of crack cocaine effects interstate commerce.

25 Ms. Paul read a stipulation about that yesterday. Third

Summation by Ms. Dayananda

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1 element: Each defendant was associated with or employed by
2 the enterprise. So what does that mean? It means that you
3 find that the enterprise was established; you find that each
4 defendant was a part of it. Association or employment by the
5 Cash Money Brothers isn't a close call in this case. World is
6 the founding member, the leader. E-Bay is a hitman for the
7 CMB. He's not just standing around Lafayette Gardens hanging
8 out with friends he grew up. He's a high-ranking enforcer for
9 this organization. The fourth element is each defendant
10 conducted or participated in the affairs of the enterprise.

11 Now, again, as we go through this this morning,
12 you'll see that the roles of each defendant is overwhelming.
13 If you give an order for the enterprise, like World, or killed
14 someone for the enterprise, like E-Bay, you have obviously
15 participated in the affairs of the enterprise. Finally, we
16 must prove that each defendant committed two acts as part of
17 the gang's activity, and those two acts were committed within
18 ten years of each other. We have another chart here. This is
19 a chart of racketeering acts. This is what we're going to
20 spend some time with this morning.

21 The government has the burden to prove two of the
22 acts that you see here. And as the jury, you have to find --
23 to find them guilty of the racketeering charge in Count One,
24 you only have to find two of these acts were proven, but,
25 of course, we've proven each of them. So let's just start in

Summation by Ms. Dayananda

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1 the beginning of when the enterprise began. World's criminal
2 enterprise didn't just pop up in Lafayette Gardens overnight.
3 It began with the dream of Damion Hardy, a dream of not just
4 selling drugs in his own community, but building it and
5 growing it beyond Lafayette Gardens. How do you know about
6 this dream? Boo told you about it. Sambo told you about it.
7 Thor told you. This was what Damion Hardy wanted to grow up
8 and be. This is page 595 from Sambo. He wanted to be a
9 kingpin, a drug lord. And he did. He started out small, and
10 then he grew.

11 Now, you learned that World grew up in Lafayette
12 Gardens. Government Exhibit 101 has been shown to probably
13 four to five of the 50 witnesses that you heard from. Back
14 when they were growing up, in the late '80s and early '90s,
15 the crack epidemic was rampant. You heard from several police
16 officers telling you the drug scene in Lafayette Gardens was
17 out of control. Damion Hardy learned the game from his older
18 brother, Myron Hardy, and he also learned it by watching the
19 Hamilton brothers, who controlled the building 433 in
20 Lafayette Gardens. You heard a lot of evidence about that.

21 World learns from the older drug dealers in his
22 neighborhood; that he wanted that success. You heard about
23 older drug dealers like "Bush" and "Polite." All of these
24 early interactions laid the foundation for Damion Hardy's own
25 leadership of his own enterprise, and he picked the right team

Summation by Ms. Dayananda

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1 members. Boo told you about, in the beginning, when World was
2 working with Deezo, and he was working with Wayno, until one
3 day World said to Boo, "Come join the winning team." And
4 that's how it started. The crew grew from there. They were
5 modeled after the drug crew in "New Jack City," a movie from
6 the '90s. They wore two diamond earrings in their left ear.
7 Each of the cooperators told you about this.

8 And remember the stories about how the younger
9 members were recruited into the crew. DJ McMillan told you
10 that World approached him. Said the words, "Do you want to
11 get down?" DJ knew what that meant. The next day he saw
12 Popsie selling at 433. Within a week he's a worker in front
13 of 433 selling for CMB. Troub told you a very similar story.
14 He and E-Bay moved from Lafayette Gardens from Coney Island.
15 One day Popsie knocks on the door and says, "Hey, you seem
16 cool." The next day they're out hustling in front of 433. It
17 was just that simple.

18 Remember that's how E-Bay entered into Damion
19 Hardy's world. He started out as a straight worker, working
20 shifts. Remember the shifts were from day shifts to night
21 shifts, and he started hustling, because the business of Cash
22 Money Brothers was drugs. There's hardly a dispute about
23 this. That's what they did. As Sambo said, you became a
24 member of CMB by showing the dedication. You sell crack to
25 show you wanted to be a part of it. That's what each of these

Summation by Ms. Dayananda

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1 witnesses talked about; day and night, selling. They showed
2 you where they sold at, "within the strip," as they called it
3 of Lafayette Gardens, sitting on the benches, selling to
4 customers.

5 And there was this structure to this all. You heard
6 about the workers; you heard about the baggers; you heard
7 about lieutenants. World had seller, like E-Bay, like Troub,
8 like Sambo, like DJ, like Plum. All told you the same thing,
9 hustling in front of 433. He also had baggers who cooked the
10 crack. You learned a lot about how crack is formed, how you
11 put it in vials and you put it in bags. Then that's a
12 separate role, the bagger to the worker. But you also heard
13 about the value of each bag. Each bag was worth a hundred and
14 fifty dollars. They were called a bong, and the worker would
15 keep only 10 or maybe \$20 of that. The rest of the balance
16 went back to World. Each of the witnesses told you that.

17 You also heard from lieutenants, like Boo. What did
18 the lieutenants do? They kept the count, and they collected
19 the money for the organization. Boo told a story how in the
20 early days of the Cash Money Brothers, to show strength in the
21 organization, they walked around with guns, and they picked up
22 the money from the workers. They went from one building,
23 straight to 325 Clausen, which was World's building, to give
24 him the money. Everyone had a role. But only World knew how
25 much was being purchased. That's because he was the leader.

Summation by Ms. Dayananda

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1 People on the bottom have no idea how much money Cash Money
2 Brothers was making. Remember Boo told you the story one day
3 he had to tell World \$30,000 was missing; it didn't even phase
4 him. That's how much money they were making.

5 You saw photos of what they sold. This is a photo
6 from one of the search warrants. You heard from law
7 enforcement officers about search warrants that were executed.
8 You heard about two search warrants that were executed at
9 Bunny B's apartment. One was in December of '96, and the
10 other one was in February of '97. '87 blue top files; a gun,
11 drug paraphernalia. You also heard about the search warrant
12 executed in January of 1993. That's when Officer Mike Lopez
13 goes to respond to a complaint from a woman who was threatened
14 by Damion Hardy and his brother.

15 They get to the apartment, Wise is arrested in the
16 hallway, and the door is slammed in Mike Lopez's face, and
17 what happens? They send for backup. Someone looks out to
18 keep look out the window, and, sure enough, two firearms, over
19 700 vials of crack cocaine, and other ammunition is recovered.
20 That's what was going on in Lafayette Gardens. Now, once
21 Damion Hardy had his team in place and the structure, it was
22 his idea to expand it beyond Lafayette Gardens. And like any
23 good leader, World spotted talent, and he spotted talent in
24 E-Bay. Witnesses told you E-Bay was a hustler day and night,
25 but he wanted more, and he knew that he wanted to be a shooter

Summation by Ms. Dayananda

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1 for this gang.

2 And his role became solidified when in December of
3 1992, on World's orders, he shot down Crazy Troy at a phone
4 booth on DeKalb Avenue. Now, why did that happen? Again, the
5 background of this, World believed Crazy Troy was a threat to
6 the organization. He was selling heroin nearby. Thor told
7 you that World thought because Crazy Troy, by his neighborhood
8 name was crazy, he may take out someone in Cash Money
9 Brothers. So the only obvious answer for Damion Hardy is to
10 take out Crazy Troy.

11 Thor told you about what happened on the day of that
12 murder. He tried to talk to World after he learned that World
13 put a hit out on Crazy Troy. Thor's efforts to save Troy
14 didn't work. And just when Thor goes into 456, in Lafayette
15 Gardens, he hears a gunshot, comes out, and he sees E-Bay
16 standing over Troy with a gun. And what happens? Thor said
17 it best. After that murder, E-Bay was more revered as an
18 individual who would get the job done. That was December of
19 1992.

20 This one incident tells you one of two things:
21 World is able to pick out the enemy, and E-Bay was able to
22 execute that enemy. When World saw a threat to his
23 organization, there was only one response; that person had to
24 go. This is the phone booth where Crazy Troy was shot down by
25 E-Bay, in December of '92.

Summation by Ms. Dayananda

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1 You heard about the rivals within Lafayette Gardens,
2 the Hamiltons, but in an effort to expand it, World decided
3 who the other rivals were. You learned about Rab from Grand
4 Avenue, Sharod from Bedford Avenue, and you heard a lot about
5 these shootings. And it's important you understand why you
6 heard about these shootings. The government didn't put up
7 this testimony for just gratuitous shooting after shooting.
8 The point of it all is World was building his organization.
9 He was building his organization, and he was sending people to
10 shoot rivals so he could keep the strength of his organization
11 going.

12 You heard about the shooting of Sambo. Sambo was
13 shot on one day by a member of Rab's crew; went back in
14 retaliation and got shot the second day. And you learned that
15 when Sambo reported this to the police, he never had the same
16 respect for Cash Money Brothers; because even though he was a
17 victim and got shot, you just don't report things to the
18 police. That's how it worked in this enterprise. And you
19 also learned about how CMB ultimately gained control of all of
20 Lafayette Gardens. Remember the Supreme shooting was back in
21 the summer of 1993.

22 Boo tells the story about how he and World are
23 coming back from a meeting. World spots Supreme, who was a
24 lieutenant for the Hamiltons. He asked Boo what's he selling?
25 Boo comes back and tells World he's selling the same type of

Summation by Ms. Dayananda

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1 crack as CMB. He orders Boo to kill him. He's got to go.
2 Four words. That's all it took. "He's got to go." And Boo
3 does exactly what he's told. He gets Melvin to shoot Supreme,
4 and Supreme is left paralyzed. After this one incident, the
5 Hamiltons never sold in Lafayette Gardens; and because of
6 World's calculated decision to take out Supreme, they had
7 complete control over Lafayette Gardens.

8 Now, this is how you know there was an enterprise:
9 Each defendant played a crucial role to this enterprise. And
10 as we go through these acts, the roles become even more clear.
11 But let's just start with Act One, distribution of cocaine
12 base. We've talked about this; you've heard ample testimony
13 about the drug business of CMB. You've seen the evidence from
14 search warrants executed. You've heard about the role, the
15 structure, the details, the bombs; that was a bag of a hundred
16 fifty dollars' worth of crack, the trays. Witness after
17 witness proved this drug distribution. This act is proved by
18 the government.

19 The challenge is for me not to get a mark throughout
20 the entire presentation. Let's move on to Act Two, now that
21 we have proven Act One. Act Two is attempted murder of
22 Theresa Gregory. There's no dispute Theresa Gregory was shot
23 in 1994. The issue for you to decide is was this from World's
24 order? Aaron Granton is not charged in this racketeering act.
25 It's important for you to understand the background to what

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1 happened, what led up to this shooting, and it starts in 1992.

2 It started, and Boo told you about this story. The
3 entire incident was triggered because World was taking a rival
4 out of the projects, and a girl named Red walked by and called
5 them clowns. Basically a girl was making fun of World. World
6 doesn't hear her call him a clown; he learns this from Boo.

7 As soon as he learns it from Boo, he goes up and spits in
8 Red's face. Red tells him watch out, and then it leads to
9 another confrontation. This is a confrontation between World
10 and Rat, the rival you heard a lot about.

11 Now, how did that rival -- how did that
12 confrontation happen? Because World learns that another girl
13 named Platrice told Rab that Cash Money Brothers was going to
14 come after them. It's a convoluted story, but think how it
15 starts out and what it leads to. That's the importance here,
16 because when World finds out that Platrice told a rival crew
17 about CMB coming after them, World tells Boo someone's got to
18 slap the shit out of Platrice. That was the order. And,
19 of course, World does it. And what happens? He goes back up
20 to the apartment. He tells Fruitquan Bailey, another valued
21 CMB member, and Fruitquan goes and does exactly what he's been
22 told.

23 How do you know that Boo is telling you the truth?
24 Theresa Gregory basically tells you the same story. She's
25 hanging out with her girlfriends, Red, LeSean and Platrice, in

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1 front of 465, when all of a sudden Fruitquan Bailey comes up
2 and smacks Platrice in the face. Go back to the testimony.
3 It's like they're two people, haven't seen each other since
4 the '90s, telling you the same story. Ms. Gregory doesn't
5 know why Platrice is slapped, but Boo just explained it to
6 you. She's slapped because World ordered it to happen.
7 Fruitquan then pulls out a gun, pistol whips LeSean, pistol
8 whips Teresa; the gun goes off, and LeSean is dead.

9 After the shooting, you also learn from Sambo that
10 World tells Fruit to head to Harrisburg, Pennsylvania, to get
11 out of Brooklyn, another witness telling you about the events.
12 But it doesn't work. Fruitquan Baily's arrested, and there's
13 a trial. Now, to World this is his worst-case scenario, a CMB
14 member is arrested and is actually going to face the criminal
15 justice system. So what's he do before that trial happens?
16 He starts threatening Theresa Gregory. Theresa Gregory tells
17 you one day she was with her four-year-old child, and World
18 confronts her, along with Mousey, who you have heard about,
19 and Carl, or "C", also member of CMB.

20 They surround her in a stairwell. Carl takes her
21 four-year-old child; they close the door to the stairwell, and
22 World says, "Are you going to testify?" Can you imagine that
23 fear? And it didn't just happen once, it happened again. She
24 told you that E-Bay jumped into an elevator when she was by
25 herself and confronted her, asked her if she was testifying.

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1 He needed to know if she was testifying. These questions
2 aren't motivated by curiosity. They're intended to threaten
3 her, to silence her, to keep her from testifying at that
4 trial. But it didn't work, because as she told you, she
5 testified at that trial, and Fruitquan Bailey is convicted.

6 Fast forward two years later, and she's already
7 testified. He's already convicted. Theresa Gregory comes
8 home a month after her child is born to visit her mother in
9 Lafayette Gardens. She hadn't been home. She goes to see her
10 mom, and she runs into World in the courtyard area. We saw
11 pictures of that courtyard area, the middle area of Lafayette
12 Gardens. World is on a bike and keeps riding around the
13 flowerpot. Obviously he saw her, and she sees him. Theresa
14 Gregory tells you between five and ten minutes later she's
15 shot on DeKalb Avenue.

16 And you know from Boo what happened in that five to
17 ten minutes, because Boo tells you World sees him on the
18 strip; he's like Theresa is back in Lafayette Gardens. He's
19 out of breath, and World tells Boo to get Donte to do the hit.
20 Boo does what he's told. He gives Donte a .380, and Donte
21 shoots Theresa Gregory on DeKalb Avenue. World tells Boo,
22 "Wait until I'm gone." And you'll hear that a lot. He never
23 sticks around for the actually hit to take place. When
24 Theresa Gregory took that stand, is there any doubt in your
25 mind that she was telling you the truth? She showed you the

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1 scar from when Fruitquan Bailey pistol-whipped her. She told
2 you she spent a month in the hospital, and she was still
3 scared to testify in 2015.

4 Her testimony is independent corroboration of the
5 testimony of Boo. And all of this evidence points to World's
6 guilt. Through ordering CMB to slap Platrice back in 1992, to
7 threatening Theresa Gregory in the stairwell, to ordering Boo
8 to get Donte to do this hit, this is all the work of Damion
9 Hardy. Also, think about how Theresa Gregory's testimony is
10 eerily similar to what Sheena Carter testified to that
11 happened to her back in July 1995. At that time, another
12 valued CMB member, Porto, was arrested. Because Sheena Carter
13 was at the scene of that shooting, World assumes she's going
14 to testify against him.

15 He calls her, tells her Porto wants to see her, but
16 then picks her up. Sheena Carter agrees to meet with him.
17 She goes to a hotel room, and he tells her, "If you go testify
18 against my man, I'm going to shoot you in your fucking head,
19 bitch. I don't have no problem killing." That's World. I
20 don't have no problem killing. A stipulation was read to you
21 yesterday. World pled guilty to this crime of threatening
22 Sheena Carter.

23 But think about these two women who testified in
24 front of you. Without any agreement with the government, they
25 came in, and they told you about what World did. They gave

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1 you an insight into the wreckage World has caused. As I said,
2 he plead guilty to threatening Sheena Carter, but now hold him
3 responsible for the threats and the attempted murder of
4 Theresa Gregory. The government's proven this act beyond a
5 reasonable doubt.

6 Let's move on to the attempted murder of Markell
7 Kennedy. This is the incident of Munchie, which Robert
8 Footman, "Troub," testified to you about. Again, there's no
9 question that Munchie was shot. It's not a mystery of who did
10 it. World ordered Trug to do the shooting, and he did it.
11 The question is how do you know it's World's order? When Trug
12 testified to you, he told you he didn't have any problem with
13 Munchie; it was World's problem. Munchie was threatening CMB
14 workers, which threatened the existence of the organization,
15 which threatened World.

16 Who else talked about Munchie -- World wanting
17 Munchie shot? DJ McMillan told you he was friends with
18 Munchie; he grew up with him. And one day World asked him to
19 go shoot Munchie. DJ McMillan said, "No, I'm not going to do
20 it." Which makes sense, because if you met DJ, he testified,
21 a very different person than who Robert Footman was when he
22 testified. DJ McMillan was the one who talked about the
23 illusion vials. He's the one who stole from this
24 organization. Troub: World tells him to do it, he does it.
25 And he tells you exactly how it happened.

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1 He and World are in court when they get a call from
2 Troub's brother, a fellow CMB member named KB. KB tells them
3 Munchie's around; he's threatening the workers. World orders
4 Troub to get the gun. He calls it the hammer. They go find
5 Munchie, and World confronts him. If you go back to that
6 testimony, it's interesting, because he confronts him. World
7 confronts Munchie, and then tells Munchie, "Let's go smoke
8 some weed," a classic manipulation by Damion Hardy. He tells
9 Munchie let's go smoke some weed and go to the Marcy Projects,
10 and he knows full well he's already ordered Troub to shoot
11 him. This is all the plan of Damion Hardy.

12 You met Troub. Do you think he was able to come up
13 with this? They go to Marcy; they drive in Troub's family
14 car, and once they get to Marcy, Troub tells him -- he freezes
15 up two times. World tries to give him the signal, gives him
16 the eye look, gives him the head nod. Troub can't do it.
17 They come back downstairs. And remember the details: World
18 goes to a phone booth, pretends to make a phone call, while
19 Munchie is still standing there. Remember Troub tells you the
20 quarter comes out. Munchie didn't realize the quarter came
21 out, but he saw the quarter came out, which meant World wasn't
22 even on the phone with anybody.

23 World gives the signal to Munchie, and now this time
24 just Munchie and Troub go back into the building. They go
25 back in the elevator, and Troub shoots him. Troub comes back

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1 out of that building fully expecting World to be there; that
2 was the plan. He comes out, and what happens? He's heading
3 to the car, and World pulls off. That's exactly the kind of
4 leader Damion Hardy is. He sends someone to go shoot
5 somebody. Doesn't even stay to pick him up. Imagine it.
6 He's heading to the car, and World pulls off in his own family
7 car.

8 Now is Troub corroborated? You heard from Officer
9 St. John. He responds to the shooting of Munchie. He
10 interviews Munchie, and he immediately goes to find World.
11 Munchie tells him, "It's World." And as a result, that same
12 day, after going immediately to talk to Munchie, he stops
13 World. And he stops him around Lafayette Gardens, when World
14 is driving Troub's family car. And we saw that. This is
15 Government Exhibit 302. And this is the voucher of that car.
16 Finally, how do you know this is World? Troub has two trials.

17 THE COURT: Take a moment to see if we can shut off
18 that machine. I don't know where it was coming from.

19 Go ahead.

20 MS. DAYANANDA: Troub has two trials. He tells you
21 at the second trial he's acquitted because Munchie won't
22 testify against him. And think about how that happened. Do
23 you think Troub was able to make that happen? Absolutely not.
24 When Troub comes home and expresses his frustration to World
25 for not bailing him out, World says one thing: "I'm the

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1 reason you're home." Ladies and gentlemen, the government has
2 proven this act beyond a reasonable doubt.

3 I'm moving on to Act Four. We talked a little bit
4 about how World built up this enterprise, but how did he
5 maintain it? He took out rivals, kept his members in check,
6 but he also knew the importance of the reputation of CMB. If
7 anything would damage his reputation, it damages CMB. It
8 hurts business, and just as important, it hurt his ego. The
9 best example of this is April 1998, in the murder of Michael
10 Colon. There's no dispute that this murder happened.

11 You saw the video. You saw how Michael Colon was
12 shot down in front of the Empire Roller Rink. He was a
13 bouncer there. He worked there with some friends, and you
14 heard from a couple of those friends, Maria Averio and her
15 husband Gus. And we also know that World isn't the one who
16 did the shooting himself. The question is was this murder the
17 result of World's order? Now, how do you know that? Let's
18 start with a little bit of the background of what's going on
19 in 1998. We talked a little bit about from the early '90s,
20 and now it's '98.

21 World's been a leader in CMB for a number of years,
22 and he wants to gain some more status. Thor talks about that.
23 He testified about how World talks to him about becoming a
24 Blood, how he's already considered a big homie by the Bloods
25 and he hadn't really done anything. Now, World knows that

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1 becoming a Blood will give him more access to people. He's
2 not leaving Cash Money Brothers. This is just giving him more
3 power, more access to people, more access to people who are
4 going to fall in line and just obey his commands. That's who
5 World is. World's obsession with power and opportunity is who
6 he was when he tried to enter that roller rink on
7 April 15th, 1998. He tries to enter the roller rink in a
8 number four jersey, and you sees there's two different times
9 where he's told he can't come in. First around 11:00 o'clock
10 he and his friend try to enter the club, and they're not
11 allowed to gain entrance.

12 Maria Averio tells you five minutes later the number
13 four jersey, who we know is World, comes back, and this time
14 it gets physical. World gets kicked out of the club, out of
15 the roller rink. Maria tells you that the guy in the number
16 four jersey says, "I'm coming back." And you know he did.
17 Thor tells you that he's in Lafayette Gardens, and he'd
18 already heard. Everybody already knew World got 86'd out of
19 the Empire. He shows up at the door with another guy, and
20 Thor knew they were all going to head to Empire to make this
21 right. Thor tells you they run into Tookie, who is a young
22 Blood, and they all head to the roller rink.

23 And Thor described to you that conversation in the
24 car. It starts out where Thor thinks he's just going to beat
25 up the bouncer, ready to do it for World. So they get to the

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1 roller rink. World gives the description of the bouncer to
2 Thor; he gets out and starts to look for him. He can't find
3 him, and when he comes back to the car, he hears World tell
4 Tooke to shoot the bouncer right in the middle of his chest.
5 And remember when Thor tells you that story he's a little
6 confused, because it evolved from him beating him up, and now
7 all of a sudden it's a shoot to kill. Because if you shoot
8 someone, and tell someone to shoot someone right in the middle
9 of the chest, you're not trying to just hurt that person,
10 you're trying to kill that person.

11 And how do you know that Thor is telling the truth?
12 That an inmate told you that Michael Colon died from a single
13 shot to his chest. Sambo also told you he learned what
14 happened through Wise. World also admits it to Boo. Boo is
15 not around, at this time. Remember he's in jail. But when he
16 catches up with World, he tells him, "I had a little guy shoot
17 the bouncer at the roller skating rink that tried to
18 disrespect me." And most importantly, you saw the video. And
19 we'll watch it again.

20 (Video played for the jury.)

21 MS. DAYANANDA: Here, as we see it, you see World in
22 the right corner.

23 Mike, can you hit the lights? Thank you.

24 Thor told you that the two people on the screen,
25 number four jersey, World. The other guy was the guy who

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1 showed up to his apartment with World right after they got
2 86'd.

3 (Video played for the jury.)

4 MS. DAYANANDA: Thor also pointed himself out on
5 this video. Again, he told you he walked by, trying to find
6 the guy who World had told him had kicked him out. And then
7 in the lower right-hand corner, you saw the shooting itself.
8 Tookie shoots Michael Colon, because World told him to. You
9 heard from witnesses who were there; you've seen the video;
10 you heard from Thor; you heard from Boo; you heard from Sambo.
11 The government's proven this act beyond a reasonable doubt.

12 Now, as you can see, this is from '91 to 2003.
13 We're in 1998. And at some point you've got to ask yourself
14 how did Damion Hardy maintain strength over CMB for so long?
15 There's a simple answer: Damion Hardy always chose violence.
16 Think about the same year, 1998, two months later, in July.
17 World is kicking a female on the ground, on Clifton place,
18 just a block away from Lafayette Gardens. He's telling her,
19 "Don't sell your shit on my block." Who tells you this?
20 James Barnett testified, a man, recovering crack addict, in
21 jail, no agreement with the government. He tells you about
22 what he saw on Clifton Place, July of 1998.

23 The woman is begging World to stop. He tells you
24 that he saw the police come, and you heard from the police
25 officer, James Hughes, and when confronted by the police,

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1 World shoots at the uniformed police officer. This one
2 incident shows you this is World; he thinks he's invincible.
3 This is about him and the enterprise. Don't sell your shit on
4 this block. You learn that World pled guilty to this crime,
5 and he was sentenced to two to four years. This is when he's
6 incarcerated, shown here on our chart, which brings us to who
7 he was at the time he was in jail, when the events of
8 June 12th, 1999, happened. This is the background. This is
9 the middle of the chart, and look what we've gone through.

10 He's ordered E-Bay to shoot Troy Davis. He has the
11 drugs. He's ordered the attempted murder of Theresa Gregory.
12 He's ordered the attempted murder of Markell Kennedy. He's
13 ordered the murder of Michael Colon. He gets a timeout. He's
14 in jail. At the time he's in jail, Cash Money Brothers is at
15 its peak. He had his workers. He had money. He had control
16 of Lafayette Gardens, and the short time in jail wasn't going
17 to stop his success. But the event of June 12th, 1999, struck
18 at the core of Cash Money Brothers and who Damion Hardy is.

19 And it's really important to understand how the
20 murder of Wise effected every member of CMB. We see here in
21 Government Exhibit 1008A where this murder happened. Imagine
22 it's the middle of the day, and Myron Hardy, another leader of
23 Cash Money Brothers, is shot down right in the middle of
24 Lafayette Gardens. You heard the story from a couple
25 different people. You heard it from Thor, from Sambo, from

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1 DJ. He's gunned down by Neno, the cousin of Peanut, and right
2 away everyone knows that it's Neno who did the shooting; and
3 because Neno is the cousin of Peanut, it means one thing. To
4 World, Peanut had to go. Each member of the Cash Money
5 Brothers tells you the same thing; Boo, Thor, Sambo, Troub,
6 Moo, and Puff. Peanut has to go. But World is also concerned
7 about how to maintain this drug business.

8 When World's in jail, Wise had been running Cash
9 Money Brothers. There had to be a physical presence there.
10 So what does he tell you? What did you learn from the
11 witnesses? Well, first, Thor tells you that E-Bay was chosen
12 to run Cash Money Brothers. Thor tells you that E-Bay wasn't
13 around. E-Bay's not so great leading Cash Money Brothers. He
14 stuck to his role as a hitman. While World is sitting in
15 jail, he chooses Taz, an outsider to Lafayette Gardens, to run
16 CMB. Each witness tells you. Why is that significant?
17 Because Taz is not from Lafayette Gardens. No one is happy
18 with the decision, but it's all very clear that it's World's
19 decision. This shows the power of Damion Hardy.

20 He's sitting in jail; he can still make an order,
21 still tell you who is managing Lafayette Gardens. As a result
22 of World's decision to put Taz in a management position, he
23 introduces new members to CMB. That's how we meet Puff, and
24 that's how we meet Louis (phonetic). You heard about Abu
25 Bakr, and you also heard about Azziz. These individuals were

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1 not the original members of CMB. And the judge will instruct
2 you that in an enterprise, you can lose or add individuals.
3 That doesn't mean that the enterprise ends there. The
4 enterprise can evolve.

5 As you know, it evolved here. People went to jail,
6 and as a result of people going to jail, new members were
7 added. But it's no doubt that while members came and went,
8 the CMB continued. And you can see that from the chart here.
9 That's the sign of a true enterprise. The structure of the
10 criminal activity is in place for the organization to
11 continue, even when its leader is in jail.

12 Now, on May 24th, of 2001, World gets out of jail.
13 You heard from Puff, from Boo, from Thor, Taz and Puff pick
14 him up, and he immediately meets with his crew. They all tell
15 you that on that day they meet up in downtown Brooklyn, and
16 World is upset. Peanut is still alive. And Moo, who is also
17 there, said it best. World tells the crew you're not applying
18 yourselves, and they all scattered. Now, imagine it had been
19 almost a year. Wise is dead in June of '99. World gets out
20 of jail May 24th of 2000. There had been some attempts to
21 shoot at Nut, but no one was dead.

22 Fifteen days after Damion Hardy is free from jail,
23 Darryl Baum is killed. That's how you know it's Damion Hardy
24 order. Now, ladies and gentlemen, again, there's no doubt
25 that Darryl Baum was murdered. He was gunned down on the

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2799

1 street. The question is did World order it, and was E-Bay the
2 shooter? Now, how do you know this is World's order? Fifteen
3 days after he gets out of jail, Darryl Baum is dead. But
4 remember a basic concept for World. In World's mind, the
5 friend of your enemy is your enemy. Peanut is the enemy,
6 Darryl Baum is the enemy, because he's friends with Peanut.
7 That's it.

8 Think about the multiple conversations you've heard
9 about how Darryl Baum ends up being known as a friend of the
10 enemy. You've heard about this conversation that took place
11 between World and Darryl Baum at a barbershop. You heard it
12 from Puff. He tells you he's with World when he runs into
13 Darryl Baum. They went a few feet away, and they see a
14 discussion, and he sees a discussion. World comes back and
15 tells Puff Hommo's responsible for the murder of Wise. People
16 are going to have to pay the piper. That was Puff's way of
17 explaining to you what he saw.

18 You also heard from Thor. He also talked about a
19 conversation he had with Darryl Baum. Darryl Baum tells Thor,
20 "I didn't know Wise and World were brothers." You also heard
21 from Moo. Moo tells you -- this is page 1302 -- that World
22 says that Hommo says, "Yo, son, I didn't know Wise was your
23 brother." Who else tells you the same thing? Alan Bryant,
24 "Boo," page 258. So when World relayed this conversation to
25 you, what did that mean in terms of Hommo saying, "I didn't

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2800

1 know Wise was his brother"? It meant that Hommo knows that
2 Wise is World's brother.

3 Peanut's our enemy and he's hanging out with him, so
4 he is the enemy. Why is this so important? Four people
5 described to you the same thing; Boo, Moo, Puff, Thor. People
6 who have not seen each other in over ten years described the
7 same conversation from different perspectives that they had
8 with World. This simple phrase of, "I didn't know he was your
9 brother," which in Damion Hardy's mind is a lie, results in
10 World saying Darryl Baume's gotta go. That's it. Those words
11 results in Darryl Baume's death.

12 Let's talk about the day of the actual murder. Now,
13 Boo tells you he's at his girlfriend's place on Clifton when
14 he gets a call from either Taz or Thor, and he tells you
15 they're always together, and he ends up going, he's picked up
16 by Puff. Puff tells you he's with Taz, and he says that Taz
17 asks him to take out Hommo. And it's an interesting thing to
18 think about, that Taz is asked by Puff to go and murder Hommo,
19 and he explains it to you. He tells you on the stand he
20 wasn't really going to go do it, and he walks down the street;
21 and he walks down the street, and he actually sees Darryl Baum
22 on Quincy.

23 Who else tells you that? A witness by the name of
24 Corey Atkinson took the stand. He was there on the corner of
25 Quincy and Marcy, and he tells you that he saw Darryl that

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1 night. Right before the murder, he noticed that Darryl was
2 talking to a white guy. That white guy is Puff. Both
3 described to you the same incident. Now, remember Boo and
4 Puff have both pleaded guilty to their roles in this murder.
5 And from their perspective, they each tell you about what
6 happened. They're in the car, and Boo tells him that he gets
7 out of the car to hold down E-Bay. He sees E-Bay coming down
8 Marcy, skipping down, standing over Hommo, and shoot him.

9 Now, if we go to Government Exhibit 602, we see here
10 on the map, Boo and Puff tell you that they're parked near
11 Lexington. Turn around and they see -- Boo sees E-Bay
12 skipping down, and he can't see the whole body because a car
13 is in the way. It's important you go back to that testimony
14 and look at it, because it makes sense. How do you know
15 that's true? Tonia Small tells you that Darryl Baum is
16 talking to Lance, who is in a car at the time the shooting
17 happens. There's a lot of people around. Corey Atkinson
18 tells you the same thing; the shooter comes from Marcy, and he
19 sees the shooter head towards Lexington.

20 The shooter, E-Bay, heads towards Lexington because
21 that's where Puff was parked. But when you're Boo, and you're
22 coming from Lexington towards Quincy, Lance's car is in the
23 way. That's how Boo wasn't able to see what exactly Darryl
24 Baum was doing. He says he sees him bent down, but he doesn't
25 see his entire body. That's corroborated by both Tonia Small

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2802

1 and Corey Atkinson. Now, Boo tells you that after they get in
2 the car, E-Bay says, "I got him in the head when he was tying
3 his shoe." How do we know that Boo is telling you the truth?
4 E-Bay admits these crimes to other CMB members.

5 E-Bay tells Thor. He tells Puff. He tells Thor
6 that he committed the murder, and they get into Puff's car,
7 the custom Benz. He also tells him, "I shot him in the head
8 at the corner of Quincy and Marcy." And he also tells Thor,
9 "I shot him while he was bending down tying his shoe." How
10 did two people make up that detail, that he was tying his
11 shoe? They tell you that because they heard it from the
12 shooter himself. Boo also tells you that E-Bay used a .380.
13 How do you know that that's true? .380 casings are recovered
14 on the scene, .380 bullets are recovered in the car, and an
15 inmate told you it was a through-and-through shot to Darryl
16 Baum's head.

17 What other witnesses talked about this murder? Moo
18 tells you that after the murder, Taz, E-Bay, and Puff come to
19 his place, on Clifton place, and get rid of the gun. He said
20 one of them said, "We had just gotten busy with this gun."
21 And to Moo, he's hanging out with these guys, he speaks the
22 same language, he knows that that gun has either been used in
23 a murder or a robbery. He doesn't need that much of an
24 explanation. He knew the gun was dirty. And Moo also tells
25 you that he learned from Taz that E-Bay skipped up to shoot

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2803

1 Hommo.

2 You also learn from Thor that he was at his
3 girlfriend's place when this happened. He heard the shots,
4 and the next day he learned from Kim Underwood, who was Taz's
5 girlfriend, about this murder. Now, it's all the same
6 neighborhood, so Thor's at his girlfriend's place. He hears
7 the shots. And remember when he testifies about that, he
8 tells his girlfriend someone's dead; because he knows the
9 difference between shots that actually make contact with the
10 human body versus just shots that were fired. But who else
11 tells you about Kim Underwood? Tonia Small, Boo, and Thor all
12 identify her house that's on Quincy.

13 You also learn about Puff selling his car. Puff
14 describes what led up to it. He said he doesn't feel
15 comfortable driving it, because it was a unique car. And he
16 tells World, and World agrees and he suggested that he sell
17 it. You hear from Boo the same story, but when Boo tells it,
18 you know that World is making fun of Puff. In Boo's
19 rendition, World had actually said to Puff to sell the car to
20 give him money to buy drugs. You hear the same story from
21 Thor. Puff sells the car, they get some drugs, and Mousey is
22 the person who gets the drugs.

23 How else do you know it's World's order? You heard
24 from three different witnesses how Mike Tyson put a hit out on
25 World after this happened. So World's answer is to hit first.

Summation by Ms. Dayananda

2804

1 Boo, Moo, and Thor tell you that World has a conversation with
2 them. It's at Mrs. Hardy's house, and they describe the
3 conversation the same way. Boo said Moo was loud in
4 protesting it, because Mike Tyson was a Muslim, and Moo tells
5 you the same thing. Troub, who is not at that conversation,
6 says it best. Troub learns it from E-Bay. And, of course,
7 E-Ba knows, because if Mike Tyson had really put a hit out on
8 World, World's going to tell E-Bay what to do.

9 And Troub says he learns it from E-Bay. Now, he got
10 beef with Mike Tyson? Who's the we in that? That's Cash
11 Money Brothers. Four witnesses, Boo, Moo, Puff, Troub and
12 Thor, that's five, tell you the same thing. And what's the
13 common denominator? It's Damion Hardy's order, and E-Bay is
14 the shooter. The government has proven this act beyond a
15 reasonable doubt.

16 Your Honor, this might be a good time to take a
17 break.

18 THE COURT: Okay. If you want to take a break, how
19 much longer do you think you might have?

20 MS. DAYANANDA: Probably about 45 minutes.

21 THE COURT: Don't talk with anybody, folks. We're
22 in the middle of summations. We'll reconvene in 15 minutes
23 with the balance of the government's summation. You may take
24 a lunch break, at that time, and see how it goes.

25 THE CLERK: All rise.

Summation by Ms. Dayananda

2805

1 (Recess in proceedings.)

2 (Outside the presence of the jury.)

3 THE COURT: Everyone's here. Let's bring the jurors
4 back.

5 (In the presence of the jury.)

6 THE CLERK: You all may be seated.

7 THE COURT: Continue with your summation.

8 MS. DAYANANDA: Thank you, your Honor.

9 Ladies and gentlemen, I wanted to just actually
10 point something out on this chart, which I didn't get to this
11 morning. You have where Damion Hardy is incarcerated, as well
12 as Aaron Granton. And what's significant here is this is
13 after the seizure of -- January 11th, 1993, that's when Mike
14 Lopez seizes all those things, and things come out of the
15 window. Damion Hardy goes to jail for that. He's in jail for
16 about a year. It's that same time, if you remember, Boo
17 testified that basically all of CMB ends up on Riker's Island.
18 He talks about how they're there during that period of '93,
19 before they get out in the summer of '93, before the shooting
20 of Supreme.

21 Also on this is where Aaron Granton's incarcerated,
22 and, incidentally, what's peculiar is you realize he's in
23 jail, and as I result World has to turn to Troub to do the
24 murder, attempted murder, of Markell Kennedy. And he turns to
25 Tookie to do the murder of Michael Colon. Granton's

Summation by Ms. Dayananda

2806

1 incarcerated until April 13th, 1999, and that brings us to his
2 participation in essentially all of the murders except for
3 Tyrone Baum. Okay.

4 That brings us to Act Six. This is the murder of
5 James Hamilton. And you see in the photos of Filet of Soul,
6 where James Hamilton had just opened up his restaurant. You
7 see the grand opening flags are still there, from this photo
8 Government Exhibit 701. How do we know this is World's order?
9 Again, think about how James Hamilton ends up on this list.
10 And think about what he said to Thor. He said, "Yeah, your
11 boy finished. Your boy JR." And, again, this is just a term
12 that CMB uses. When he says "your boy," it means someone who
13 is important to the enterprise.

14 Now, Thor testified that World explained that JR
15 Hamilton transported Neno, the person who shot Wise, outside
16 of Lafayette Gardens after the shooting. Now, again, Thor
17 tries to tell World differently, that, hey, listen, maybe
18 James Hamilton doesn't have anything to do with this. You met
19 Thor. He testified for two days, and when he testified, did
20 he seem like the type of person who would plead for someone
21 else? Of course, he did. He was emotional on the stand. He
22 was respectful. That's the same person he was when he's not
23 committing murders but talking to World and telling him, hey,
24 listen, maybe James Hamilton doesn't have anything to do with
25 this. What's World's response? He dismisses him and calls

Summation by Ms. Dayananda

2807

1 him "captain save a ho." How do you make something like that
2 up? "Captain save a ho." Why? Because Thor says maybe James
3 Hamilton doesn't have anything to do with this.

4 Dismissed. But that's a great example of the
5 maniacal leadership of Damion Hardy. It doesn't even matter
6 if it was true or not. It didn't matter that James Hamilton
7 helped Neno. It didn't matter that Darryl Baum was friends
8 with Nut. When World said someone has to go, they have to go.
9 Who else tells you about James Hamilton? Boo tells you, Troub
10 tells you. They tell you that because James Hamilton had been
11 seen with Nut in his truck, they all have the same sense;
12 because of World, he's gotta go.

13 How else do you know that this is World's order?
14 Think about every attempt to kill James Hamilton that was
15 testified about during this trial. Every single attempt to
16 kill him was a direct result of World ordering a shooter to
17 take the shot. Boo tells you about two incidents. He tells
18 Tion that he gets the call from World, that JR's at the
19 real estate place. Tries to get Tion to do it. Thor tells
20 you about an incident, or Popsie another CMB member was sent.
21 Thor tells you also the same story about Tion being sent. Two
22 witnesses describe in the same event. And Thor tells you that
23 he told both Popsie and Tion, "Just tell World there's too
24 many people around. There's too many people around. You
25 can't do the shot."

Summation by Ms. Dayananda

2808

1 Puffy also tells you about this, tells you he's with
2 World on Myrtle Avenue when World wants to swing by JR's
3 wife's beauty salon on Myrtle Avenue. Each witness tells you
4 about how World's getting frustrated about these failed
5 attempts, and Puff tells you even E-Bay was complaining about
6 how World expected the impossible, for E-Bay to just drop
7 everything and come do it. Boo tells you about the incident
8 where he overhears World yelling at a CMB member who refused
9 to take the shot at James Hamilton. Each attempt, the common
10 denominator, World sending the shooter.

11 But let's talk about the actual day of the murder
12 itself. Now, Moo, tells you that he drove by the restaurant,
13 Filet of Soul, with Taz and with E-Bay, and they deliberately
14 were driving by to see if James Hamilton was there. That's
15 what's going on. Every CMB member knows the order. Every CMB
16 member is looking for James Hamilton. They drive by the
17 restaurant, and Moo tells you James Hamilton is in the
18 restaurant, and his back is to the window. If you look at
19 Government Exhibit 701B, that exhibit wasn't shown to Shelby
20 Henderson, to Moo, but it was shown to James Davis.

21 James Davis is the guy who was working on the
22 refrigerator in the restaurant that day, and he tells you
23 that's exactly where James Hamilton was seen the night of his
24 murder. So Moo tells you once James Hamilton is spotted in
25 the restaurant, he, and E-Bay, and Taz, they go to the house

Summation by Ms. Dayananda

2809

1 on St. John Street, so E-Bay can prepare to do the hit. E-Bay
2 puts on a bulletproof vest, and he takes the Tec-9. Moo tells
3 you this because he saw it. He's there. And because of Moo's
4 role in this organization, he doesn't go to the murder scene.
5 He doesn't go to the restaurant. You can understand why.

6 Azziz goes with E-Bay. Azziz plays the role of
7 holding E-Bay down. And Moo tells you that before they leave,
8 Azziz tells him this is not a game. Now, we know what happens
9 outside the window of that restaurant. E-Bay goes up to the
10 restaurant; he shoots into the restaurant and successfully
11 shoots JR, despite the gun jamming. And if you look at the
12 Government Exhibit 701B, you see four gunshots aimed directly
13 at that chair, where James Hamilton was seated. How do you
14 know it's E-Bay? Moo tells you he saw him get geared up, grab
15 a Tec-9. Who else tells you this? It's on his own
16 admissions. E-Bay tells other members of CMB.

17 He tells Thor he used the Tec-9, and his gun jammed.
18 Thor also spoke to Azziz and tells the same thing to him at
19 Galaxy Diner, that he held down E-Bay outside of the
20 restaurant. Tells Boo the same thing. E-Bay also tells Boo
21 at some point after the murder that when they see JR's brother
22 Ulysses that Ulysses had a wide-eyed look on his face. And
23 E-Bay tells Boo that's exactly how Ulysses looked on the day I
24 took out his brother. How do you know these witnesses are
25 telling the truth? Other witnesses corroborated it. The

Summation by Ms. Dayananda

2810

1 ballistics corroborated it.

2 Let's start with the ballistics. Now, James Davis
3 tells you he's working on the refrigerator. He's in the back
4 here of the picture. You can actually see the refrigerator
5 where he was standing, and he hears one gunshot. JR Hamilton
6 from the seat of that chair has enough time to tell Mr. Davis,
7 "I think somebody's shooting." Go back to Mr. Davis'
8 testimony and read that. "I think somebody's shooting." And
9 James Hamilton has enough time to turn around -- to first hear
10 the shot, say those words, attempt to turn around, and then
11 he's shot. That, ladies and gentlemen, is the gun jamming.

12 Ballistics detectives explained to you how you have
13 to rack the Tec-9. The gun had jammed, and E-Bay then took
14 additional shots. Both James Davis and Jarret Jamison told
15 you that Ulysses had just left the restaurant before the
16 shooting had happened and came back within minutes after those
17 gunshots. That corroborates E-Bay's admission Ulysses was
18 there with his eyes wide open. And when we heard from the
19 ballistics detective, he told you about how the gun jams. The
20 detective who responded described the difference between a
21 live round and a spent round, and we saw those. During
22 Ms. Paul's direct examination, those bullets were shown to
23 you.

24 The ballistics detective also told you that
25 recovered on the scene were nine-millimeter calibers, which he

Summation by Ms. Dayananda

2811

1 believes was from a N11, which appears to be -- to look like a
2 Tec-9. Now, if we look at those ballistics -- this is the
3 outside of the restaurant, where we see here -- we see the
4 markers of where those gunshots were, and where those live
5 cartridges were recovered from. And we see here the shells
6 and the live cartridges. You can see the difference. That's
7 what was recovered from outside of the restaurant, and that's
8 how you know the gun jammed.

9 Now, I want to just go back to what this actually
10 did for E-Bay's reputation. This was something that E-Bay was
11 proud of. Because, as Boo told you, it raised his reputation
12 tremendously. Why? Because it took a lot of heart to shoot
13 like that. Because imagine you're outside of a restaurant;
14 you have enough focus, enough determination that you have to
15 kill this person, that you shoot once; your gun jams; instead
16 of going out and leaving, he stays there. He's able to still
17 make the kill. Of course, he told people about that. He was
18 proud of it. And the ballistics evidence corroborates his
19 admissions.

20 When you go back to the jury room, think about that.
21 Think about how each of these witnesses; Boo, Moo, Thor, James
22 Davis and Jarret Jamison, all would tell you something that is
23 corroborated by the independent evidence. Do you think that
24 when they took the stand they knew what the ballistics
25 evidence was? They didn't. They told you what they learned.

Summation by Ms. Dayananda

2812

1 Boo, Thor, they told you what they learned from E-Bay, because
2 E-Bay is the shooter. And you know this is a result of the
3 order of Damion Hardy. The government has proven this act
4 beyond a reasonable doubt.

5 Now, we've talked a lot about "Peanut," Ivery Davis,
6 and how he was the big prize for the Cash Money Brothers.
7 There's no dispute Peanut was shot down tragically, on
8 August 10th, 2000. Shots were fired at him. He was in the
9 Range Rover. It accelerated across Spring Street and
10 ultimately crashed into the corner of Sixth Avenue and Spring
11 Street. How do you know this is World's order? We've talked
12 a lot about it. You've heard a lot of testimony, and Boo
13 explained it to you.

14 As soon as Boo gets out of -- as soon as World gets
15 out of jail, the first time I spoke to him, he congratulated
16 me for coming home. He talked about Wise, and then he told me
17 there was nothing to talk about; that Peanut was responsible,
18 and Peanut had to go. Another great example of the leadership
19 of Damion Hardy. There's no opposing voices that are being
20 heard. Because remember Boo told you, and Sambo told you, and
21 Thor told you they all knew Peanut. They all grew up together
22 in 433. He was friendly with members of Cash Money Brothers.

23 Boo tells you that Nut called him and said, "Hey,
24 listen, my cousin did this. I got nothing to do with this.
25 He acted on his own." And Boo tells you he tried to tell that

Summation by Ms. Dayananda

2813

1 to World, but it didn't matter to him. Once he made the
2 decision that Peanut's got to go, he had to go. You heard
3 about the multiple attempts on Peanut's life. Multiple
4 shootings were testified to by Boo and by Thor. They tell you
5 about a shoot out in Lafayette Gardens. Both witnesses were
6 shown Government Exhibit 108D, and they described to you how
7 they were leaning on the gate that we see there, and Peanut
8 came through Lafayette Gardens and started shooting.

9 They both demonstrated this by leaning on the gate,
10 showing you how they were standing. As one example, the many
11 shootouts that they had with Nut. Boo and Thor also told you
12 about a story about how they see Nut's truck drive by on
13 Lafayette, and they both get on bikes and go to try to find
14 Nut. Boo tells you how Thor was supposed to hold him down,
15 but didn't hold him down properly, and they go tell World and
16 World's mad; because, again, Nut's still walking around.

17 What's worse is that Nut is taunting World.
18 Remember the story that Boo tells you and Troub tells you
19 about World running into Peanut at a club in Manhattan. You
20 hear it from two perspectives. Boo tells you he gets a call
21 from World and another guy about what happened at that club.
22 And World is so upset and so angry he can't even articulate
23 what happened. But you know what happened; you heard it from
24 Troub. Peanut and Nut run into each other, and Nut was like,
25 "You keep playin', you're going to be where your brother's

Summation by Ms. Dayananda

2814

1 at." And World got emotional and kept repeating, "I want to
2 go with my brother. I want to go with my brother."

3 Now, again, World calls Boo his best friend in this
4 organization, but Troub is there. Troub sees it happen. Two
5 witnesses tell you about the same event. Imagine the words,
6 "You keep playin', you're going to end up with your brother."
7 As if World wasn't angry enough. All of this, the shootings,
8 the runnings, the attempts at his life, all of this is a
9 background to the actual murder that took place on August 10th
10 of 2000.

11 Now, Thor described this evening to you. He's in
12 Brooklyn, he gets a call from World, and he goes up to meet
13 World at Club Cheetah, another club Thor testified to was in
14 lower Manhattan. He goes there. He's reluctant to go there.
15 But he goes, and he's standing outside the club, when a guy
16 comes up -- he's in touch with World, and a guy comes out and
17 gives him two guns. One of those guns is a .40-caliber gun.
18 Thor goes there because World says there's going to be a
19 robbery. Thor says I'm not going to be involved with this,
20 and he goes back to Brooklyn.

21 When he's back in Brooklyn, World calls him and
22 says, "I'm behind Nut." Now, if you go back to Thor's
23 testimony, he wasn't sure if World just wanted him to come
24 back to Manhattan to do the robbery, or if this was the night
25 of the big prize, where they actually shoot Peanut. He tells

Summation by Ms. Dayananda

2815

1 you he calls E-Bay, gives him the .40-caliber, and E-Bay heads
2 out to the club about 15 to 20 minutes ahead of Thor. When he
3 hands him the gun, he tells him, and he knows, "Nut is at this
4 club." Thor gets to Club NV. He sees E-Bay get out of
5 World's car, and he sees E-Bay shoot at Nut. Thor tells you
6 he leaves immediately.

7 Now, how do you know Thor is telling you the truth?
8 First of all, let's start with the background of this gun. So
9 much evidence has gone into this case, and it's difficult to
10 piece it together at times, because it's been a big puzzle.
11 One of the things that have been testified about is this party
12 that was on Gates Avenue, where an individual by the name of
13 Lamel Lawson was shot. You heard testimony about this from
14 Sambo, from Troub, from Thor. Thor tells you that E-Bay was
15 at the party, and he comes to his house right after the party,
16 and tries to give Thor this gun back, the same .40-caliber
17 gun, because he had just killed someone with it.

18 Thor doesn't take the gun back, so E-Bay keeps it.
19 Now, the timing of this is key, because the Lamel Lawson party
20 is in October of 1999, and the Ivery Davis death is in August
21 of 2000. You heard testimony that guns were passed around by
22 Cash Money Brothers. This gun, you heard from the ballistics,
23 was used in the Lamel Lawson murder, as well as the Davis
24 murder. The ballistics evidence shows you that it's a match.
25 Government Exhibit 7002, this is the ballistics from

Summation by Ms. Dayananda

2816

1 October 23rd, 1999. Government Exhibit 7005, the ballistics
2 from August 10th of 2000. Both those murders have the same
3 .40-caliber Smith & Wesson. Why? Because E-Bay is the
4 shooter in both of those murders. How else do you know it's
5 E-Bay? His own admissions.

6 As we go through each of these murders, you learn
7 that it doesn't -- when you do a murder for CMB, as E-Bay has
8 down, you've got to tell people. That's how you keep your
9 reputation up, and your position up in the enterprise. Of
10 course, E-Bay tells people. He calls Boo right away and tells
11 him he got Tito. And Boo tells you I don't know why he has
12 this code for Tito. That's how he referred to Nut. Who else
13 tells you Tito? He says the same thing to Troub. "Got your
14 boy Tito." How do two people come up with the same nickname
15 for Peanut? It's because they heard it from E-Bay.

16 E-Bay also tells Boo that he's worried because he
17 may have run into Shay Black on the train, and Boo tells you
18 he knows Shay Black through his girlfriend Wendy, and tells
19 him not to worry about it. He says Shay Black is just a
20 regular dude who works at UPS. Who else did he mention Shay
21 Black to? Thor. Thor says the same thing. Shay was on the
22 train to New Jersey, and E-Bay was spooked by it. Again, this
23 has been a fast trial, and you may have forgotten Shay Black
24 actually testified in this trial.

25 He said he lived in Lafayette Gardens; he worked at

Summation by Ms. Dayananda

2817

1 UPS in New Jersey, in the summer of 2000. He worked the
2 nightshift. Sometimes took the train home, and he was related
3 to Wendy through his wife. Now, if Boo and Thor were going to
4 make up this detail about E-Bay's admission, how do you make
5 this up? E-Bay saw Shay Black on the train. He was worried
6 Shay Black was going to piece it together, and he tells his
7 friends. He tells Boo, and he tells Thor.

8 E-Bay also tells Moo, who tells you that E-Bay
9 described the shooting as a triangle shooting, meaning he went
10 from the head, to the right, to the left. He tells Moo that
11 Nut was in the car, and he was behind him. That is how the
12 shooting happened. Did you think that Moo knows about the
13 ballistics, or that an inmate would say the same thing?
14 Remember that an inmate tells you there's three gunshot wounds
15 to the back of Ivery Davis. The entrance was to the back.

16 Of course, E-Bay also tells Troub, his confidant in
17 CMB. In fact, he shows up with the same .40-caliber, and he
18 describes to Troub in detail how he did it. He was saying
19 "Son," who Troub told you, time and time again, was World, was
20 bugging out. "Son" was rushing him, doing all reckless. He
21 was telling "Son" chill. He did it the smooth way. He crept
22 up on the truck; he said he shot Nut, and Nut took off, took
23 off crazy and crashed. Think about the details of that
24 admission to Troub. World wanted him to do it reckless, but
25 he did it the smooth way. That admission is consistent with

Summation by Ms. Dayananda

2818

1 what Dale Simon testified to you about.

2 Dale Simon told you he's standing in the window
3 talking to Peanut on the driver's side of the Range Rover. He
4 hears the gunshots. He goes back to his truck, and then he
5 sees the car ultimately flipped over. Look at the gunshot in
6 Government Exhibit 801M. Imagine the precision of the shot
7 that E-Bay took to not hit Dale Simon. That's what Dale Simon
8 told you; that's what his friend Jamel Ashby told you. That
9 is the smoother way of doing something. That's exactly what
10 he told Troub. If he had done it reckless, as World
11 suggested, Dale Simon would be dead, too.

12 How else did we prove this? I'm going to spend some
13 time on Uasia Davis' testimony. She testified, I think, in
14 the first couple days of this trial. Uasia Davis worked for
15 CMB. She dated World, at some point. She moved drugs for
16 him. She hustled for him. But also remember she's the cousin
17 of Peanut. They all grew up together. Remember her emotional
18 testimony when she started crying on the stand, talking about
19 the day of Peanut's murder. She gets the call, and she goes
20 to the crime scene. She goes from Lafayette Gardens to the
21 crime scene to see her cousin.

22 She tells you that she comes back from Lafayette
23 Gardens, comes back to her own community, and who does she
24 see? E-Bay and Troub. And what are they doing? They're
25 taunting her. We won. We won. Can you imagine on the day of

Summation by Ms. Dayananda

2819

1 the murder itself, E-Bay is telling Peanut's cousin we won.
2 Her testimony was beyond credible when she testified about the
3 details of that day. How else do you know she's telling the
4 truth? Troub tells you about the same incident. The day of
5 the murder, he's with E-Bay. He saw Plum. Plum confronts
6 them about killing her cousin, and Plum gets emotional. Two
7 people tell you the same event. And who are they talking
8 about? E-Bay.

9 But the most chilling admission comes from World
10 himself. Plum tells you a few weeks after this crime she's
11 walking down the street with a friend, and World comes up
12 behind her. "I want to talk to you. I want to talk to you."
13 Of course, Plum knows by now that CMB's responsible for her
14 cousin's death, and when she confronts him about Nut's death,
15 World tells her to this:

16 "So we went inside the building where he used to
17 live, and I said what happened with my cousin? He was like
18 that's big boys' business. Mind your business. E-Bay popped
19 that."

20 There is no doubt that this murder was the order of
21 Damion Hardy, carried out by Aaron Granton. But perhaps the
22 best proof that shows you how much of a prize this murder was,
23 was the testimony from numerous witnesses about that party at
24 Mary Hardy's house. Boo tells you that they're there, and
25 news coverage of Nut's murder is being played on television.

Summation by Ms. Dayananda

2820

1 Now, remember, this is 2000; this is not the time where people
2 had DVRs and you could tape things. You had to actually have
3 a VCR tape, a VCR, and hit record when something meant
4 something to you, and that was exactly what was going on there
5 at that party. Thor tells you snippets of the news coverage
6 were being played.

7 Five years later, in a search warrant executed, a
8 VHS tape is recovered, and what's on that VHS tape? Three
9 different news channels all covering Peanuts death. What else
10 do you find? Newspaper articles covering his murder. Why is
11 this so important? Because killing Ivery Davis was a big
12 prize to Cash Money Brothers. The government's proven this
13 act beyond a reasonable doubt.

14 I want to turn now to Count Nine, which is the
15 murder of Johan Camitz. That's not charged as a racketeering
16 act. That's charged as a separate count. There's a whole
17 other chart. We don't deal with that right now, but, trust
18 me, there's another chart where the counts are. Johan
19 Camitz -- as you know, you've heard from Justin Curland, she
20 was walking down Spring Street in the early morning of
21 August 10th, 2000, when all of a sudden a car whizzed by, and
22 Johan Camitz, who had been walking with her, was no longer
23 next to her.

24 Ms. Curland testified that she saw his sandal, and
25 the next thing she saw he was wrapped around a pole. Now, we

Summation by Ms. Dayananda

2821

1 go back to Government Exhibit 801A. You see the sandal that
2 was there, in the lower part of it. And the pole that we see
3 in the next exhibit, there's a real distance between where
4 that sandal is and where Johan Camitz was then found by the
5 ambulance. Now let's get one thing straight. We're not
6 suggesting that World and E-Bay targeted Johan Camitz, as they
7 did the other victims in this trial.

8 Under the law, what you have to realize and remember
9 when you go back, and Judge Block will explain this in more
10 detail, because Damion Hardy and Aaron Granton intended to
11 kill Ivery Davis, the intent for Davis transferred to Johan
12 Camitz. They knew that killing Ivery Davis was the prize for
13 Cash Money Brothers; it keeps their position in the
14 enterprise, maintains this enterprise. That intent transfers
15 to the death of Johan Camitz, because you have to look at
16 their actions.

17 Now, think about this, E-Bay shot into a Range
18 Rover; he had to have known, when there's people all around,
19 as Dale Simon and Jamel Ashby testified to, that another
20 person might get killed. When Thor testified, he told you
21 look at the car. They knew what they were doing. And you
22 also saw the admission that they made to Troub. They knew
23 there was a reckless way of doing it and a smooth way of doing
24 it. It was smooth because they got what they wanted. They
25 were able to kill Ivery Davis, but it was reckless when the

Summation by Ms. Dayananda

2822

1 car driven by Ivery Davis hits Johan Camitz. That's what you
2 need to think about when you think about why they should both
3 be held responsible for the murder of Johan Camitz.

4 Now, an inmate told you that Johan Camitz died from
5 the impact of trauma to his body. This is the same kind of
6 analogy; if E-Bay wasn't such a great shot, and he actually
7 shot Dale Simon, the same theory applies. It's called
8 transferred intent. Now, remember the impact of that call
9 propelled Johan Camitz in the air. He flew about a hundred
10 feet, as the crime scene detective told you, and then landed
11 at that pole. You also heard from an inmate about Ivery
12 Davis' broken ankle.

13 Now, this shows how fast he was going, either by
14 accelerating to get away from the shooter or braking. What
15 matters is imagine the impact he had to break his right ankle.
16 That's the same impact that hit Johan Camitz that day. Johan
17 Camitz's death is the direct result of the kill orders of
18 Damion Hardy and the bullets fired from E-Bay's gun. Remember
19 that when you go back to the jury room.

20 Now, we've gone up to August of 2000, and,
21 obviously, our timeline goes up until 2003. And you learn
22 that the enterprise continued, the drug-dealing continued, the
23 crimes continued, and you learn that World decided to branch
24 out from drug-dealing. It's not the '90s anymore. Crack has
25 changed a bit, so he branches out, and he decides to diversion

Summation by Ms. Dayananda

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1 identify. He turns to ambulance chasing. We had a couple
2 witnesses talk to you about the medical extortion scheme that
3 World decides to get in February 2001. Puff describes it to
4 you, and Thor describes it to you. Basically World's idea is
5 we're going to get the same group of thugs that I've been
6 hanging out with, and we're going to go to these clinics, and
7 we're going to tell him, hey, use us now.

8 Puff tells you that a guy named "Glock" tells one of
9 these clinics, "World runs Brooklyn. You better get it
10 right." That's what's been happening. It's been a ten-year
11 run of criminal activity. In World's mind, he does run
12 Brooklyn. Puff tells you that World says everyone's going to
13 fall under this umbrella. Thor describes the same story.
14 World is going around to lock down the insurance scam spots
15 with a group of guys, including Puff, and Thor says everyone's
16 going to fall under the same banner; two witnesses tell you
17 the same words of Damion Hardy.

18 Thor tells you that World tells a guy, "My name is
19 World, W-o-r-l-d." That's who we're dealing with. You also
20 saw some telephone records that corroborate what these
21 witnesses told you. Now, the telephone records you saw
22 yesterday are now going to explain to you -- so these
23 telephone records came in yesterday. And, let's be clear,
24 from the charts, no one is telling you what is being discussed
25 in these conversations. We don't have the length of the

Summation by Ms. Dayananda

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1 conversations. The point of these telephone charts and
2 records is to show you that World is in touch with the players
3 of this game.

4 So let's just start with the first number there.
5 1151. This is in Government Exhibit 8002. If you look at
6 that, you'll see these records are in the name of Zareh
7 Sarkissian, who you know is Puff. The second number, ending
8 2025, is World's home phone number. We stipulated to that
9 with defense. The third number, ending 5094, is World's cell
10 phone. That's the phone that -- Detective Vulich, he's the
11 one you heard the audio from. That's seized from World when
12 he's arrested for that arrested February 2001. The fourth
13 number is 5076. That's Government Exhibit 8002. That's the
14 phone number of Mohammed Noor, and you heard a lot of
15 testimony about Mohammed Noor being involved in this medical
16 fraud scheme.

17 This chart corroborates exactly what the witnesses
18 said. Puffy is in touch with World to arrange to meet to go
19 to the clinics, and World was in contact with Mohammed Noor,
20 in the days leading up to when World and a group of thugs went
21 into various clinics. What the witnesses say shows up
22 directly on these records. If you look at the telephone
23 chart, you can see the contact that all these individuals, all
24 the main players, had during this time period. That's World
25 being in touch with his members to start this new scheme of

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1 ambulance chasing.

2 Now, what's clear from this is that World is still
3 in charge, and he's still calling the shots. And nothing
4 captures that more than how he speaks to these people on the
5 recording that you heard. This really captures the essence of
6 Damion Hardy.

7 (Audio played for the jury.)

8 MS. DAYANANDA: It's all about making money, and
9 that's what this was all about. That's what the enterprise
10 was about. "I have my own security." Imagine this guy Edward
11 pleads to Damion Hardy, "Please don't bring those people
12 around. It's making me nervous." Damion Hardy's response,
13 "That's my security. If you get with this, you can have that
14 security, too." It's like he's recruiting Edward to be a CMB
15 member. I want to take a step back and talk about the murder
16 for hire scheme that only Aaron Granton is charged with. And
17 I can imagine during the trial it's a little bit confusing,
18 because you heard from two cooperating witnesses who had
19 nothing to do with Cash Money Brothers; Emmanuel Mosely and
20 Alvin Smiley.

21 And I want you to think about how this murder is
22 charged differently, because it's a murder for fire. Again,
23 Judge Block is going to walk you through the law on this, but
24 for the murder for hire, the government has to prove three
25 things. One is that the defendant used or caused someone else

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1 to use a facility of interstate commerce. What that means in
2 real people terms is that this would be the page director that
3 we showed you. That is how it's effecting interstate
4 commerce. Use of an interstate facility was used with intent
5 that a murder would be committed. That would be on those
6 pager records. You see the orders from McGriff (phonetic),
7 and you see the responses, Mosely, and you also see E-Bay on
8 the records; and that the murder in question was to be in
9 consideration for receipt of something of value. What does
10 that mean? They got paid. You heard about that through the
11 testimony.

12 Now, how did we prove this beyond a reasonable
13 doubt? Where it really starts with is Emmanuel Mosely. When
14 Mosely said, "I'm the kind of guy you want to hire and kill
15 somebody," he was talking about himself. But that's exactly
16 who E-Bay was in October of 2001. Because Mosely learns of
17 E-Bay because of Kiddo. And if you look here, this is page
18 1537, as to really why he hired E-Bay:

19 "The reason Kiddo told me that E-Bay was one of the
20 guys that put a lot of work in his neighborhood."

21 "Did you ask E-Bay to participate in the murder?"

22 "Yes."

23 Now, this phrase to "put a lot of work in, put work
24 in," you've heard this throughout the trial, and you know by
25 now that translates to he's willing to do murders. That's how

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1 Mosely described himself, and that's how he knew he could hire
2 E-Bay. Now, you also heard Emmanuel Mosely talk about Kiddo.
3 Who else told you about Kiddo? When Boo testified, he said
4 that E-Bay had been hanging around uptown with Kiddo. And
5 Thor tells you that E-Bay met "Dog," who you know is Mosely's
6 nickname, through Kiddo. You also know what motivated E-Bay
7 around this time to branch out from Cash Money Brothers.
8 Again, his confidant. His boy Troub tells you that he's
9 getting frustrated because World's not paying him. Mosely
10 tells you that in the very first conversation he told E-Bay he
11 was going to get paid, and E-Bay agreed instantly.

12 Now, you heard from these two witnesses, Mosely and
13 Alvin Smiley, and their testimony is so devastatingly
14 consistent for the actual murder of Troy Singleton. Both tell
15 you they didn't have a photo of Troy. Both give the same
16 description of where they were seated in that PT Cruiser.
17 They tell you E-Bay was the front passenger. Both tell you
18 Troy was walking out a club, heading to his car, and he hits
19 an automatic start. Both witnesses tell you it's the same
20 order of shooters. E-Bay gets out of the car, shoots him in
21 the head. Then trip, who is Barry Broughton, and then Smiley.

22 Both tell you E-Bay gets back in the car. Both tell
23 you they dropped him off in Brooklyn, and both tell you he
24 left with a bag of guns. These are two witnesses talking
25 about an event that is nearly 15 years ago. They haven't seen

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1 each other, and they're spot on. There's no reason to throw
2 E-Bay into this. Why did they tell you like that? Because
3 that's how it happened. Look how their testimony is
4 corroborated. The ballistics corroborates it. The ballistics
5 evidence tells you that there was 13 (sic) types of bullets
6 recovered on the scene. What's that consistent with? Three
7 people shooting; E-Bay, Trip (sic), and Smiley. Two different
8 types of guns were used. That corroborates with what Smiley
9 tells you. He told you E-Bay and Trip take automatics, and he
10 grabbed a revolver.

11 The crime scene detective also tells you that the
12 shots were fired in downward motion, and that's what Smiley
13 says. Once E-Bay shoots him, Troy Singleton is on the ground,
14 so the rest of the shots were fired while Troy was on the
15 ground. By the way, Smiley didn't even identify E-Bay. This
16 is a guy who did a murder with somebody and saw him twice. He
17 saw him on the night they both killed Troy, and then he sees
18 him once after that. The description of the shooting is also
19 corroborated by the medical examiner. She tells you Troy
20 Singleton was shot eight times in total; one in the head, and
21 the seven shoots were to the body. The gunshot wound to the
22 head, the shot that E-Bay hit, that was the one that was
23 immediately incapacitating. As if that's not enough to prove
24 this, look at the pager messages from E-Bay himself.

25 Now, I want you to think back to the testimony of

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1 Emmanuel Mosely. Mr. Amatruda put him on the stand.
2 Mr. Mosely goes through the entire testimony about the
3 incident that night, and then, at the end, Mr. Amatruda shows
4 him the pager records. Mr. Mosely hadn't seen those pager
5 records since 2006, but what he had just testified about was
6 consistent with exactly what the pager records show us. So if
7 we look at this October 27th, 2001, reply for Murder Inc.:

8 "Yo, you're good. Still looking for these bitches.
9 Hit you."

10 That, you know, as Mosely told you, is from Supreme
11 McGriff. Remember this was all because of Supreme McGriff.
12 He hired Mosely; Mosely hired E-Bay. October 28th, reply from
13 Murder Inc.:

14 "You might want to check the sports bar. A lot of
15 bitches."

16 That, Mosely tells you, is that they spotted the
17 person. Reply from Manny:

18 "We're going to try and find it."

19 October 28th, reply from Manny:

20 "Is How about around?"

21 Both Emmanuel Mosely and Alvin Smiley talk about
22 "How about," how "How about" worked for McGriff, and "How
23 bout" was the one who was looking for the two intended
24 targets. Then the messages from E-Bay:

25 "This is Cyrus. Give me a call. 9176827026."

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2830

1 A few days later:

2 "This is E-Bay. Give me a holler when you get a
3 chance." Same phone number.

4 There is also the text messages as where E-Bay says
5 to Mosely, "Meet me up at 149th Street. That's consistent
6 with Emmanuel Mosely told you where he met up with E-Bay.
7 Now, as I said, this charge only relates to E-Bay, but look at
8 the pager of "This is Cyrus." This is corroboration for other
9 CMB members who told you Puff, Boo, Thor, Troub also called
10 him Cyrus. "Cyrus the virus." Is that a coincidence? The
11 government proved beyond a reasonable doubt that Aaron Granton
12 was one of the hitmen who was hired to murder Troy Singleton.

13 I want to get back now to the racketeering act of
14 kidnapping, attempted murder of Ashabudeen Sakoor. There's
15 overwhelming evidence that proves this act beyond a reasonable
16 doubt. How do you know it's World? At this point, it's
17 2001 -- 2002. I'm sorry. And World is hanging out with Stro.
18 Witnesses tell you that Stro came into CMB later. DJ tells
19 you this, Boo tells you this, Troub tells you this, and he's
20 always with World, at that point. Who's connected to Stro?
21 But let's start with LeSean Campbell.

22 LeSean Campbell testified also -- again, not a CMB
23 member. He tells you that he hooks up with Stro, because he
24 met a guy in jail by the name of Ashabudeen Sakoor. When
25 LeSean Campbell gets out of jail, he hooks up with Sakoor for

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2831

1 a heroin sale and mentions this to Stro. Of course, Stro, who
2 is working for World suggests that they rob Sakoor. They
3 wanted to rob him of his drugs and rob him of money. LeSean
4 Campbell tells you that he gets into his Stro's car, and World
5 is there. They sit in the car and discuss the robbery.

6 "Prior to that day, did you know Stro had any
7 connection with World?"

8 "No."

9 "Did you have any kind of reaction when you saw
10 World?"

11 "I was a little bit taken, no."

12 "It's because he had had a reputation."

13 World sits in the car, and they plan the robbery.
14 That's just one way you know it's World. Think about the day
15 of the kidnapping itself. LeSean testified that he sees
16 Popsie and Tion, as you know, two CMB members. They go to the
17 strip club. He gets there, and then he leaves. On the way
18 there, he overhears CMB members talking on the phone, and he
19 tells you it's to the Ayatollah. And who does he believe that
20 is? It's World. Because he knows that World is the leader of
21 credit crew.

22 Now, you also heard from Boo about this. Boo tells
23 you that he was sent there to go deal with the kidnapping,
24 because World tells him to go and hold down the crew. How do
25 you know that Boo is credible about this incident? Think

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2832

1 about the testimony between Boo and the victim in this,
2 Ashabudeen Sakoor. Two people who don't know each other at
3 all describe the event in the exact same manner. Boo sees him
4 take a cab to the club. Sakoor told you that. Inside the
5 club, Sakoor tells you that some guy he doesn't know comes in
6 and starts talking to him. You know who that is, and you know
7 why that happened. Boo testified they sent Tion in to talk to
8 Sakoor, because he was taking too long in the club.

9 Sakoor gets out. He gets thrown in the van. Two
10 guys surround him with guns. He gets thrown in, and Boo tells
11 you the same thing. He's not in the van, he's in another car
12 watching this happen. Sakoor tells you he's tied up with duct
13 tape. Boo tells you the same thing. Sakoor tells you they
14 first drive to a neighborhood in Queens. Sakoor tells you
15 that's his sister's neighborhood, a nice neighborhood, in
16 Flushing, Queens, and Boo tells you they go to a nice
17 neighborhood. He doesn't know where he is, but you know
18 that's the neighborhood of Sakoor's sister.

19 The plan gets screwed up there, so who does Boo
20 call? World. And World tells them to go to the crack spot at
21 66th Lexington. Boo tells you that "Brown," who you know is
22 Mark Cooke, was left at that spot with the victim and an
23 AK-47. Now, you know that Mark Cooke was arrested the next
24 day with the AK-47, and you heard that from Sergeant Dolores
25 Copecheck (phonetic). She arrested Mark Cooke and seized the

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2833

1 AK-47. Two witnesses who don't know each other are describing
2 the same event. How else do you know World is guilty of this?
3 He tells you he's there because World told him to be there.
4 Thor told you he learns about this incident from Popsie, and
5 also we have phone records from that incident. This is
6 Government Exhibit 8021 and 8022. If we look at the first
7 number there, this is July 10th, 2002, the day of this
8 kidnapping.

9 We look at the first number there, number ending
10 3911. That's one of the numbers in the book seized from
11 World's mother's home. We see that from the Mary Hardy search
12 warrant. The second number, 4028, is a common number that
13 both World has with LeSean Campbell, the government submits,
14 Stro, based upon the common calls. Next number, 2501,
15 Government Exhibit 8016, again, it's available to you, is
16 subscribed to Dorothy Bootie. You heard from Sakoor that he
17 identified in one of the photo arrays an individual who is one
18 of the participants. By stipulation, we learn that person was
19 Robert Bootie.

20 The next number is 0131. This is Thor, which,
21 again, is in one of the agenda books seized from Mary Hardy's
22 apartment. We also have those phone records, which are
23 Government Exhibit 6011C -- A and C. And the last number
24 there is 6931. This is Government Exhibit 8020, and that's
25 for LeSean Campbell, and for some reason his phone records are

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1 in his own name and his own social security number, something
2 people don't really do, especially in this criminal World, but
3 that's what we have, 80220.

4 Now, the chart shows to you that World is talking to
5 all of the players on the night of the kidnapping. And if you
6 look at the activity that is shown there on these charts, it
7 shows that Stro's in touch with LeSean Campbell at 9:12 p.m.,
8 just when the kidnapping was getting started. It shows that
9 Stro's in touch with World. You can see there the contact
10 activity. And it shows that Stro's in touch with Bootie when
11 they rob Sakoor and held him. Again, this shows that World is
12 in contact with all of the major players of this particular
13 event.

14 Just to clarify, Government Exhibit 802 is not in
15 his name. It's only his social security number. I don't want
16 to misrepresent anything. The other reason you know it's
17 World is Boo tells you that as a result of this event, Tion is
18 arrested. And World tells Boo I'm going to get him a lawyer
19 so in case he cooperates the lawyer will report back to him.
20 You heard during this trial from Dennis Copeland. He was the
21 attorney hired by World to represent Tion. And, now, think
22 about this, if World has nothing to do with this, why would he
23 hire an attorney for Tion. Because World knows that if a CMB
24 member starts talking, it's going to be a direct threat to
25 him. It will comprise him, and it will compromise the

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2835

1 organization.

2 You see here a number of different phone numbers
3 that were seized from that search warrant, but in the corner
4 there on the left is the phone number of Dennis Copeland. You
5 also see there the phone numbers Zareh Sarkissian, Jimbo, and
6 the various numbers of Damion Hardy throughout this period of
7 time, from all those agenda books. And be clear, you heard
8 also on that audio Damion Hardy doesn't like to talk on
9 phones. He repeatedly says I don't want to talk on the phone.
10 You saw multiple numbers for Damion Hardy seized from that
11 search warrant.

12 Over the years, this isn't a guy who keeps one phone
13 number or one land line. The government proves this beyond a
14 reasonable doubt. I also want to talk about how this is
15 charged as the counts that I'll refer to. Right now I just
16 want to focus on Counts 12, 13, 14, and 15. All of these
17 relate to the kidnapping. The conspiracy to kidnap Sakoor,
18 kidnapping, conspiracy to rob, and the attempted robbery. As
19 you see, it's a separate chart. These are not racketeering
20 acts. These are the counts that the defendants have been
21 charged with.

22 Racketeering four deals with four separate
23 racketeering acts, but all relate to the kidnapping and
24 attempted rob. To prove the kidnapping, you must prove that
25 World aided and abetted in the abduction of Sakoor. Again, we

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1 talked a little bit about aiding and abetting theory, and it
2 applies to these charges. An abduction means exactly what you
3 think it is; taking someone by deadly force or hiding them
4 where they're not likely to be found. Of course that happened
5 here. Sakoor tells you two guys come with guns, put him in
6 the van. There's an AK-47. He's taken to Brooklyn.

7 Aiding and abetting means that World purposely
8 helped in this crime. Of course, he did. It's his idea.
9 He's there for the planning. They tell him -- World tells Boo
10 to tell him to 66 Lexington, and he's on the phone records.
11 Now, the Count 12 is the conspiracy to kidnap Sakoor.
12 Judge Block, I think, explained to you what conspiracy is, and
13 basically it's an agreement. It's the agreement to kidnap
14 him. Even if the kidnapping had never happened, World agreed
15 to do it. The Count 13 is the actual kidnapping itself.

16 These counts are basically the same as the
17 racketeering act. It's the same proof. But you also have to
18 find that World did this to maintain or increase his position
19 in the Cash Money Brothers, and, of course, you know that's
20 true. This is just another attempt for him to be the leader
21 of this enterprise, to get money, and to get what he thought
22 were going to be drugs. Of course, all of the participants
23 are CMB members; Popsie, Stro, Boo, and Tion. Count 14 is
24 conspiracy to rob Ashabudeen Sakoor. Again, conspiracy is the
25 agreement. When World sat in the car with LeSean Campbell and

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1 with Stro, he agreed to do this robbery. Even if it had never
2 happened, but we know it did happen.

3 The robbery was never completed, because they were
4 never able to get the drugs or the money that they wanted, so
5 Count 15 is an attempted robbery. Judge Block is going to
6 instruct you on the elements that we have to prove for an
7 attempted robbery, but it's generally taking something by
8 force. And that's exactly what was happening here. They
9 attempted to take heroin and take money. And you also heard
10 by stipulation that heroin also has an effect on interstate
11 commerce, and that's how it's charged federally here. So
12 Count 12, 13, 14, and 15, the government has proved beyond a
13 reasonable doubt, as well as Count 22.

14 Count 22 is the use of a firearm. There's no doubt
15 that a firearm was used here, and there's no doubt that World
16 knew that a firearm would be used, and helped, encouraged, and
17 aided in the use of that firearm. It was his idea. Count 22
18 is proven as well. Now, before I turn to the final murder, I
19 want to spend some time on checking some things off here on
20 the count chart that we have.

21 THE COURT: Ms. Dayananda, it's just about
22 1:00 o'clock now, so I sense that your estimate is revised,
23 and you're going to take the rest of the day, or part of the
24 day, or what do you anticipate?

25 MS. DAYANANDA: It's one more act to go through.

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1 THE COURT: It's up to you whether you feel you want
2 to do this before or after lunch. You know better than I how
3 much longer. The jurors won't mind staying for another 10 or
4 15 minutes. If you feel that's undue pressure on you, we can
5 do it after lunch.

6 MS. DAYANANDA: We can break for lunch, and I can
7 wrap it up in 20 minutes after that.

8 THE COURT: Let's reconvene at 2:15. At that time,
9 I suspect by 2:30 or so we'll be ready to hear the summations
10 from Mr. Herman. Now, don't talk about the case, because it's
11 not until you hear everything and you actually commence your
12 deliberations here, after I explain the law to you, that you
13 interact with each of you as a group of 12. That's the whole
14 beauty of jury 12 jurors, so, you know, talk about anything
15 other than the case, and we'll see you at 2:15.

16 (Lunch recess)

17 (Proceedings continued on the following page.)
18
19
20
21
22
23
24
25

CLOSING STATEMENTS BY MS. DAYANANDA

2839

1 (Honorable Frederic Block takes the bench.)

2 (Jury is in the courtroom at 2:21 p.m.)

3 COURTROOM DEPUTY: You may be seated.

4 THE COURT: All right, folks. So Ms. Dayananda is
5 going to wrap up her summation now and then we'll proceed
6 with Mr. Herman who will be doing a summation for
7 Mr. Granton next. Go ahead.

8 MS. DAYANANDA: So I just want to go through some
9 of the things that we've already proven here that I forgot to
10 checkmark.

11 We talked about the murder for hire for Troy
12 Singleton, and that was Count Twenty Five. And also it
13 applies to Count Twenty Six, which is the conspiracy to
14 commit murder for hire. And that is, again, the agreement.
15 The government has proven that E-Bay agreed to commit this
16 murder. Even if the actual murder never happened, he agreed
17 to it, and that's how we have proven it; obviously through
18 the testimony of Mr. Mosley and Mr. Smiley, and of course the
19 pager records.

20 What else have we proven here is the murder of
21 Johan Camitz, which is Count Nine. We talked about that this
22 morning. Both defendants are charged with that particular
23 count, but that's not a racketeering count.

24 I now just want to switch to Counts Twenty Three
25 and Twenty Four, which is the cocaine base distribution

CLOSING STATEMENTS BY MS. DAYANANDA

2840

1 conspiracy and the distribution of cocaine base.

2 So again, this is essentially what we already
3 proved in Act One, which is the distribution of cocaine base.
4 As you can see, the Racketeering Acts somewhat mirror the
5 counts that are charged, but there are some differences that
6 we'll talk about a little bit more.

7 But here it's charged as a substantive count, it's
8 the distribution of cocaine base. Of course, you've heard
9 ample evidence about the drug business of the Cash Money
10 Brothers.

11 And Count Twenty Three charges the conspiracy.
12 Again, there was the agreement to distribute cocaine base.
13 And Count Twenty Four deals with the actual distribution.

14 Now, as part of this, we have to prove that the
15 actual conspiracy involved 50 grams of crack cocaine.
16 50 grams is not -- when you think about the entire testimony
17 that you've heard here, it is not that much. The government
18 has proven this hand over fist in terms of what was actually
19 sold by the Cash Money Brothers. You saw the evidence of the
20 vials, you heard the testimony concerning what was seized,
21 and you also heard testimony about World going uptown
22 re-upping, buying kilos of cocaine for the business. So
23 obviously, the amount that the government has to prove, which
24 is 50 grams, has been proven; so that's Count Twenty Three
25 and County Twenty Four.

CLOSING STATEMENTS BY MS. DAYANANDA

2841

1 So now let's switch to -- this would be
2 Racketeering Act Number Ten, and it's the murder of Tyrone
3 Baum.

4 Now, this is the final murder we're going to walk
5 through. And again, as I started off every murder count for
6 you, the question is really: Is this World's order? And, of
7 course, E-Bay is not the shooter for this particular murder.

8 No one is challenging that Boo, Allen Bryant, shot
9 Tyrone Baum at a construction site at Malcolm X Boulevard.
10 Allen Bryant testified to you in detail how this happened.
11 He pled guilty to the crime.

12 The important thing for you to consider is why
13 Tyrone Baum became a target of World. And it comes back to
14 conversations that both Boo and Thor testified to about.
15 Each of them had separate conversations with World. And in
16 each conversation, World is very clear with his goal: T-Rock
17 has got to go.

18 Now, remember the background of this; Tyrone Baum
19 and Darryl Baum are brothers. In June of 1999 when Darryl
20 Baum was murdered by Cash Money Brothers, Tyrone Baum was in
21 jail. He gets out of jail and you hear there is a threat put
22 to World and CMB because he wants revenge, or so it's been
23 told to them, for his own brother's murder. You learned
24 about this from Boo. You learned about this from Thor. And
25 you also learned about this from Moo, who described to you

CLOSING STATEMENTS BY MS. DAYANANDA

2842

1 the same threats. Moo told you that there were kites being
2 sent from jail saying there was a threat to both World and
3 Taz. Thor also said there were threats to World and Taz.

4 Now, you heard about Taz and you heard about his
5 own involvement in knowing or believing that Tyrone Baum has
6 something to do with his father's death; you heard that
7 through the witnesses.

8 So let's be clear here with what your focus is.
9 Did World want Tyrone Baum dead? The answer is yes. And you
10 know that from three different sources: From Boo, from Thor,
11 and from Moo.

12 And as we look here from Allen Bryant's testimony,
13 what was his concern about T-Rock getting out of jail? That
14 he would try to revenge his brother; meaning, he would come
15 after him. And what was your response? World said he had to
16 go, which means, you know, Tyrone Baum had to go.

17 Now, as part of this description of the murder of
18 Tyrone Baum, Boo also describes to you a conversation. Now,
19 it's 2003. We've seen that the enterprise has shifted gears,
20 it's done some medical fraud, the crack game is a little bit
21 different. And Allen Bryant testifies and tells you that
22 it's getting harder to sell drugs, he's finding it to be
23 difficult. So he tells World hustling is getting harder, so
24 he wants to be paid for being a hitman.

25 First of all, take a step back and imagine the

CLOSING STATEMENTS BY MS. DAYANANDA

2843

1 credibility of that witness. This is a conversation he had
2 with World, his boss. He took the stand and he told you he
3 had desires to be a hitman. Hustling was getting harder.
4 That detail goes towards his credibility. Here is something
5 that no one knows about and he took the stand to explain to
6 you why he wanted to get paid for this particular murder.

7 Now, these conversations that World had with Boo
8 and that World had with Thor, they happened the day before
9 the actual murder. The day of the murder you hear from Thor
10 and from Boo about what happened.

11 First of all, Thor tells you that he's near the
12 mosque with Taz and he sees T-Rock near the mosque. Now,
13 Thor explains to you how he knows T-Rock; he's known him
14 since he was 19. And he knows about the threat, so Thor
15 immediately calls World. World's not there, but World sends
16 the order. Make sure they get it done; straight from Damion
17 Hardy.

18 Now, you also heard about this from Boo. Boo says
19 he gets a call from Taz or Thor, he's at a different mosque.
20 He comes to that location. And he tells you on the way to
21 the mosque, he calls World, he reaches out to him and World
22 says, "Taz is good for the money." And how do you know
23 that's true? Boo tells you he gets paid by Taz, and Thor
24 says he sees him getting paid from Taz. Regardless of Taz
25 paying Boo, it's clear Boo did this murder for World. He

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1 initially had that conversation to get paid by World, and
2 World tells him to get the money from Taz.

3 Now, for the actual event of the murder Boo tells
4 you he's with Abubakr and Moo. He goes from one site to
5 another site, and he's in the van; Abubakr's Dodge Caravan
6 with Moo. Once they get to the construction site or getting
7 near to it, he tells Moo to get out of the van. Moo tells
8 you this exact same thing. Moo never actually makes it to
9 the corner of Malcolm X Boulevard and Halsey where it
10 happened, because he leaves before. From Boo's perspective
11 he tells Moo to get out of the van. From Moo's perspective,
12 he already knew he's wasn't going to go there, but the same
13 incident is described.

14 Now, the actual murder Boo tells you in detail; he
15 walks to the corner, he gets to the corner of Malcolm X and
16 Halsey, he sees T-Rock. T-Rock is in a construction uniform.
17 He walks by him first. He goes to the bodega on the corner,
18 gathers his thoughts, buys a drink, comes back out.

19 Who else tells you that same thing? Thor, in his
20 car at the red light sees Boo walk across Malcolm X go into
21 the store and come out. Thor tells you that he's sitting in
22 his car and he then sees Boo walk up to T-Rock and shoot him.
23 Boo tells you he shoots T-Rock three times; one in the head
24 and two times in the body.

25 Eyewitnesss also describe the shooting in the same

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1 way. One of the eyewitnesses, Juan Otoy, told you the
2 shooter came down Halsey and gets into a van. Of course you
3 know that van was driven by Abubakr, and you know it's Boo
4 that he saw.

5 Now remember one of the witnesses says that there
6 was a towel wrapped around the shooter's head. This is a
7 really good example of what has been going on throughout this
8 trial it. Witness memories. We're talking about an event
9 that happened over ten years ago. That eyewitness describes
10 Boo. There is no doubt it's Boo, but in his mind, there is a
11 towel wrapped around his head. But if you remember, when Boo
12 testified, he said after the shooting he lifted his shirt to
13 cover his face. That's the same thing. Two witnesses
14 describing the same event; inconsistent, but it's the obvious
15 same event. You heard it from the shooter himself and you
16 heard it from the eyewitness. Remember that when you
17 evaluate these witnesses and remember that when you hear the
18 defense arguments. Witnesses who don't know each other are
19 talking about the same events, and these events happened well
20 over ten years ago.

21 After the shooting Boo tells you he gets into the
22 van driven by Abubakr. Boo tells you this and they drive
23 away. He also says he knows Abubakr got rid of the van in
24 Pennsylvania. He got rid of it obviously because it was just
25 driven away from a murder scene.

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1 Now, again, you heard from at least two or three
2 different witnesses from the Philadelphia Police Department
3 who might not have known what they were testifying for, but
4 here's the point: Abubakr, in Philadelphia, reports that his
5 van is stolen, which you know is not true, and then the van
6 was recovered. It's the same van that was used after the
7 murder of Tyrone Baum. That's how you know Boo's telling you
8 the truth.

9 What else do you know? The ballistics from the
10 scene corroborate what Boo told you. Ballistics recovered
11 9mm casings, which were recovered on the scene. 9mm is
12 consistent with Kizzy giving the 9mm gun to Boo. And if you
13 remember, Boo arrives there with no gun. Thor tells the
14 story how the guy Ty comes by in a van and he doesn't have a
15 gun. So Taz calls the girl, Kizzy. Kizzy comes with the 9mm
16 and gives it to Boo. Boo tells you this. Thor tells you
17 this. And ballistics tells you it's a 9mm. Boo also told
18 you that he shot him one time in the head and two times in
19 the body. The medical examiner told you the exact same
20 thing.

21 Both of these witnesses are corroborated also by
22 the phone records. Now, we saw a lot of different note pages
23 that were seized from Mary Hardy's house. One of those
24 numbers is Dwayne Meyers'. This is Government Exhibit
25 6011-C. You see here it says "Thor (347) 992-0131."

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1 As part of the subpoena we also received those
2 phone records. This is Government Exhibit 8014; the number
3 for Thor that was seized from Mary Hardy's apartment. And
4 you see that as the first number that we see there on the
5 telephone chart.

6 The second number on the telephone chart is Edward
7 Cooke, Taz, Government Exhibit 8014. This is the number for
8 Taz. We see this on 6011-A, Taz, (347) 992-0173.

9 The third number on the chart is a number seized in
10 the search warrant conducted at Abubakr's home in
11 Philadelphia. Again, a very fast witness, FBI Agent John
12 Loudon testified to this. Government Exhibit 124 is the
13 number seized at Abubakr's home, (646) 294-1333.

14 You also heard from Daxlene Maxwell during this
15 trial. She's the woman who worked at the Sprint store who
16 dated Stro. She says World came in to the Sprint store with
17 Stro and she got Stro two phone numbers. Government
18 Exhibit 8000, (914) 406-5776, as well as Government
19 Exhibit 6010, which is the telephone number that is also
20 recovered at Mary Hardy's apartment (917) 723-4900, which is
21 also the number that Daxlene Maxwell opened up in her
22 grandfather's name, (917) 723-4900.

23 Those are the numbers that you see on that
24 telephone chart that was put into evidence. And what does
25 this chart show you? On the day of the murder of Tyrone Baum

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1 all the key players are in touch.

2 If you look at the 4900 number, it shows that Thor
3 is in touch with World, just as Thor testified. And you look
4 at that contact amongst all the players for that particular
5 day.

6 When you go back in the jury room, think about
7 that. Obviously you don't know the substance of what's being
8 said in the chart, but what that chart it shows you that
9 World was in touch with the main players and it corroborates
10 the testimony from the witnesses who testified about this
11 murder.

12 What's also important about the murder of Tyrone
13 Baum is that Boo, Thor, Moo and Puff all tell you that World
14 was not told who the shooter was. And understand the
15 reasoning for this. Boo wants to keep all of his money, and
16 that's his reason not to tell World. It was suggested to him
17 by Taz, and he agreed to it. Because he knows since World
18 told him to do it, if he got the money from Taz, World was
19 going to expect half of that money, because Boo is his
20 employee, and that's how it would have worked.

21 Each witness tells you this. And they also tell
22 you that they told World that Desperado did the murder. And
23 think about why that makes sense. These are World's people
24 all telling you the same thing; that they wanted to keep it
25 from World for a reason, to keep the money. That's what it

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1 was. It doesn't mean that this wasn't World's order.

2 And understand that no one has denied that Edward
3 Cooke, Taz, had his own dog in this race. Did he want to see
4 T-Rock dead? Sure, but it doesn't mean it wasn't World's
5 order, and it doesn't mean that World is less guilty of this
6 murder. He asked Boo to do it. He told Thor to make sure
7 that it gets done. And Boo did this murder for World and
8 World only. There is no evidence to suggest otherwise. The
9 government has proven this act beyond a reasonable doubt.

10 So now you see here, you've gone through all of the
11 Acts that we're asking you to consider as part of this
12 racketeering enterprise, and the government has proven each
13 of those acts beyond a reasonable doubt.

14 I now want to turn to the related counts.

15 THE COURT: Ms. Dayananda, maybe five minutes you
16 can -- you're going to be put cutting into your rebuttal
17 time. I just wanted to caution you. Because I'm going to
18 get this case to the jury by tomorrow afternoon, and you may
19 have just curtailed your rebuttal. I just want to give you
20 fair warning. You said an hour and a half; you've taken the
21 whole day. Ten minutes, wrap it up.

22 MS. DAYANANDA: I understand. Okay.

23 Before we turn to the counts, I just want to make
24 sure you understand how the enterprise is also the same way.
25 World is continuing to sell drugs in LaFayette Gardens. You

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1 heard from DJ McMillan that in 2002 Stro is in charge.
2 Troub also tells you this. And he tells you that Damion
3 Hardy said he's coming back. He doesn't want anybody
4 hustling anymore. That's in LaFayette Gardens. That's how
5 you know the crack, the drug enterprise was still going on.

6 It also continued in other ways. You heard about
7 how World was trying to enter the music industry, so now
8 Cash Money Brothers are at music industry parties robbing
9 music industry folks.

10 You heard that World is dating Lil' Kim, and now
11 Cash Money Brothers member are helping out Lil' Kim with
12 security.

13 You heard this World wants to get Lil Kim's album
14 a bomb. You saw how Troub explained what a bomb was to
15 Judge Block. A bomb is when some DJ hits the button and
16 poof, the bomb sound drops. That's who that witness was.
17 He explained it just in the way. You found him credible
18 when he explained that, and that's how you judge his
19 credibility when he explains how and why he did the criminal
20 acts for World. All of this continued up until World's
21 arrest in 2004. That's how you know the enterprise
22 continued.

23 Now, I just want to go through this count chart
24 and then I'm done.

25 So for the Count One there is the racketeering

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1 conspiracy. The government has to prove that each defendant
2 agreed to violate the RICO statute, which is what we went
3 through in the past couple of hours. We don't have to prove
4 that they actually did anything of the substantive acts, but
5 they agreed to do so. The government has to prove that
6 somebody committed those acts, but obviously we proved that
7 the defendants committed those acts. So for the RICO
8 conspiracy, again, it's the agreement to commit the RICO;
9 we've proven that count.

10 Now, for the remaining counts, it's the murder
11 counts, and I just want to go through this very quickly,
12 because we've already proven these acts as part of the
13 racketeering crimes. But what we have to prove for each of
14 the murders that are charged separately -- and you'll see
15 the murder of Michael Colon, Count Three; the murder of
16 Darryl Baum in Count Four, the murder of JR Hamilton in
17 Counts Five, Six, Sixteen and Seventeen; and the murder of
18 Ivery Davis in Count Seven, Eight, Eighteen and Nineteen.

19 For these counts we have to prove that each
20 defendant committed these murders to maintain or increase
21 their position in the enterprise. This is a no brainer.

22 Starting with World, again, the leader of the
23 enterprise, he committed these violent acts to keep his
24 leadership in the CMB, he committed the violent acts to
25 protect the drug business, to control his turf and to

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1 protect members.

2 For E-Bay, it's the same thing; he has to maintain
3 his position in the enterprise. You learned that he started
4 out as a hustler and made his way into a shooter. He wanted
5 to keep that position, and that's why he participated in the
6 murder as the shooter as the hitman for each of these
7 standalone counts.

8 That's how you need to evaluate these counts as
9 you go through them back in the jury room.

10 No one said it best than Thor when he explained to
11 you --

12 THE COURT: Five more minutes and then --

13 MS. DAYANANDA: I'm done.

14 THE COURT: -- and then he'll start his summation.

15 MS. DAYANANDA: I'm done.

16 When Thor explained to you why it's important to
17 commit these violent acts.

18 Finally, the use of a firearm causing death for
19 each of these victims. Again, it's the use of a firearm.
20 You heard from the ME. Every murder was committed with a
21 weapon, with a gunshot wound. So for each of them, you have
22 to evaluate it. Again, was World at the scene? No, but he
23 encouraged and he provided weapons, it's under an aiding and
24 abetting theory, so for each of these the government has
25 proven beyond a reasonable doubt.

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1 That concludes my remarks. I thank you for your
2 patience. It's been a long trial and we appreciate your
3 service here.

4 You'll hear the defense summations and then at the
5 end Mr. Amatruda will have final remarks for you. When you
6 go back in that jury room, think about what we've walked
7 through. Think about how these witnesses have corroborated.
8 Listen to the law. Uphold the law. Go back and do your
9 work, and I'm confident that on behalf of the Government,
10 you will find both these defendants guilty of all these
11 crimes.

12 THE COURT: Thank you, Ms. Dayananda.

13 Now, Mr. Herman, I understand you're going to
14 deliver the closing remarks on behalf of Mr. Granton, right?

15 MR. HERMAN: Yes, Judge. I just need about three
16 minutes to set up.

17 THE COURT: Okay. We'll wait.

18 (Pause.)

19 MR. HERMAN: Shall I go ahead, Judge.

20 THE COURT: Go ahead.

21 MR. HERMAN: Thank you.

22 SUMMATIONS BY MR. HERMAN

23 MR. HERMAN: I wrote here "good morning, Ladies
24 and Gentlemen," but I'm changing that to "good afternoon,
25 Ladies and Gentlemen."

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1 I know it's about a quarter to 3:00. I'm going to
2 finish today; I've got maybe an hour, maybe a little more.
3 Lawyers seem to be very bad at estimating how long they are
4 going to talk, but I'm going to try to keep it to that.

5 And, you know, we respect the fact that you've
6 given up your time to participate in this case with us. And
7 obviously, we can't have a trial without individuals who are
8 willing to make that sacrifice. And you realize, I think
9 when you first got here at the end of March, that there are
10 a lot of individuals, a lot of people who could have been on
11 the jury who got eliminated for one reason or another, and
12 you folks were the lucky winners, I guess, to be on the
13 case. And, you know, you might be rather be doing, you
14 know, making cookies or looking for another job, but -- and
15 we never got the cookies by the way.

16 But we appreciate it. And, look, we can't -- this
17 isn't done by computers. Trials aren't done on some laptop
18 somewhere. They're done in courtrooms like this with real
19 people who come to court and say certain things and show you
20 certain things, and then you have to decide what happened,
21 who you believed, and what took place, and if anyone is
22 guilty of anything.

23 And I will say that we tried, maybe it wasn't
24 always obvious, but we tried to ask the kind of questions
25 that you would ask; and not of all the witnesses. I

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1 counted, there were almost 60 witnesses in this case. Most
2 of them we didn't have many questions for; some we had no
3 questions for. But there were witnesses who were extremely
4 important to the government's case; and we tried, hopefully
5 in a responsible way, to ask them questions which were
6 illuminating, which will help you decide what you have to
7 decide in this case.

8 And if we didn't, if we failed somehow or we five
9 offended you or let things get too boring or repetitious,
10 you know, you can hold it against Mr. Beecher, and myself,
11 and Ms. Pannitti. Don't hold it against Aaron Granton.
12 We're his lawyers, and we have tried to narrow the issues
13 and tried to ask the type of questions which, hopefully,
14 will make your job easier in terms of deciding this case.

15 So the Judge told you generally that -- and you
16 heard it during the course of the trial, Mr. Granton is not
17 charged with all of the offenses which you've heard about
18 over the last day from the Assistant United States Attorney.
19 He's charged with some of these offenses; and some of them
20 he's not charged with at all.

21 And there has also been what's called enterprise
22 evidence. I think sometimes the Judge would stop during the
23 course of a trial and tell you that that's not a charge,
24 that's information which the government can provide to you
25 to show hopefully that establishment of an enterprise. So

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1 I'm going to try to break down a little bit as to what the
2 charges are.

3 And obviously E-Bay -- I'll call him E-Bay,
4 everyone calls him E-Bay -- is charged with very serious
5 offenses. He's charged with the murders that you've heard
6 described. He's charged with being part of a drug
7 conspiracy, and he's charged with related weapons offenses.
8 He's charged with the murder of Darryl Baum in June of 2000.
9 He's charged with the murder of JR Hamilton a couple of
10 months later in August of 2000. He's charged with the
11 murder of Ivery Davis, Peanut, who was killed outside the
12 club in Manhattan. And, of course, Johan Camitz, who was
13 the unfortunate citizen who got hit by the car as Ivery
14 Davis is driving away. And he's charged in what they're
15 calling the murder for hire, the murder of Troy Singleton in
16 October of 2001.

17 Now, you've heard about other murders. There is a
18 murder that -- the Empire Roller Rink murder of Michael
19 Colon, the bouncer. That doesn't apply to Aaron Granton,
20 he's not charged with that.

21 There is the attempted murder of Theresa Gregory,
22 the woman who gets shot apparently because she testified
23 against a member of the group. He's not charged with that.

24 There is the shooting of Markell Kennedy, Munchie,
25 he's not charged with that.

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1 He's not charged with the murder of T-Rock, which
2 you just heard about, Tyrone Baum.

3 There is a kidnapping charge, there is a robbery
4 charge; that has nothing to do with Aaron Granton.

5 And I think when the Judge provides a verdict
6 sheet, which will be probably sometime tomorrow, it will all
7 be laid out for you. There are boxes you can check and
8 there are guidelines there as to what the actual charges are
9 against Aaron Granton and how you can view those charges.

10 Now, there is also what's been called enterprise
11 evidence, which are other criminal activities, which the
12 Government is permitted to present to you, to prove the
13 enterprise, all right?

14 An example -- and you can't find Aaron Granton
15 guilty of those particular acts, because he's not charged
16 with those acts. There is nothing in the indictment. There
17 is nothing on the verdict sheet for two murders that you
18 heard about.

19 So even if you think he did it, you can't find him
20 guilty, because he's not charged with it. And that's -- you
21 you'll see the procedures that have been established here as
22 to how you view the evidence.

23 All right. What am I talking about?

24 The murder of Lamale Lawson. Now, that's not a
25 name that probably means anything to you. That took place

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1 at that party in Brooklyn in 1999, October 1999, On Gates
2 Avenue. Do you remember the description of the party?

3 We heard from Lamont -- Sambo, who was actually
4 there. And we never really get to meet Lamale Lawson. You
5 see him covered by the sheet. You remember the photographs,
6 it was like a basement party where -- well, we've got that?
7 Do you have that on page 672 for Lamont Johnson?

8 MS. PANNITTI: Yes.

9 MR. HERMAN: This is not going to be high tech.
10 This going to be me, Ms. Pannitti, and the Elmo.

11 This is Lamont Johnson talking about that party
12 and what happened. It's page 672 of his testimony. They
13 are talking about the party. Who was there? Boo, Tion,
14 E-Bay, Popsie, DJ, there was a lot of us there. Question:
15 While you were at the party, did you carry a firearm? Yes,
16 I did. Skipping down, line 18. A guy -- he had a gun
17 inside the party. I didn't know his name firsthand, but he
18 wasn't supposed to have a gun on him at the party. What did
19 you do with the gun? I took it from him. Continuing on
20 page 673 please, line two. That's where they were throwing
21 cake. I started throwing cake at the end of the party.
22 Towards the end of it at line six, I started throwing cake
23 at the party. Skipping down, he describes what's going on
24 at line 18. And all you heard was shots, but it was from
25 inside the party. Question, and you were already outside

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1 the party? Answer, I was in the entranceway to going out.

2 Question, what did you do? Oh, I ran out the party.

3 Question, did you ever learn who had fired the shots? No, I
4 didn't. Thank you.

5 Now, Lamale Lawson dies as a result of being shot
6 at that party by somebody. The ballistics expert -- well,
7 actually, the crime scene police officer Stephen Feeks shows
8 you information about that. There was ballistics found
9 there. Those ballistics were then connected up with the
10 shooting of the killing of Ivery Davis and another random
11 shooting. And the government's claim is, well, E-Bay shot
12 Lamale Lawson; and therefore, he did the shooting of Peanut.
13 Well, I'll get back to that in a second.

14 We don't know who shot Lamale Lawson. We don't
15 know why he was shot. There were plenty of people there
16 with guns. And, in any case, Aaron Granton is not charged
17 with that, so you can use that for whatever purpose you
18 think is appropriate. If you need that to find the
19 existence of an enterprise, that's the only reason that it
20 was presented to you.

21 There is another murder, alleged murder of Troy
22 Davis. And there is two Troys, as it turns out, two victims
23 named Troy that you heard about. Now, this is Troy Davis.
24 This is Crazy Troy, they call him Crazy Troy, who was called
25 in 1992. He was shot outside somebody's window, there was a

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1 phone booth or like a phone stand, an old-fashioned phone
2 stand there. The government claims that E-Bay killed Troy
3 Davis.

4 And Thor testified, Dwayne Meyers, that, yes,
5 E-Bay told me that he killed Crazy Troy. Now, again, E-Bay
6 is not charged with that murder.

7 And, ironically, when the medical examiner was
8 here and she went through all the autopsies, she didn't
9 mention the autopsy of Troy Davis. I assume that he died.
10 We don't have any -- 100 percent proof of that, but for the
11 purposes of my remarks, he was skilled by somebody.

12 Dwayne Meyers, Thor, winds up getting arrested for
13 that murder. And that's -- remember, he had set up an
14 alibi, Thor, with some woman that he supposedly was with in
15 case somebody accused him of it, which it turned out
16 somebody did apparently and he gets arrested, and he spends,
17 like, a week and a half in jail until he winds up getting
18 released.

19 But, again, that's not a charged murder. You
20 can't find anybody guilty of that in this case, because
21 nobody is charged.

22 I'm going to talk about the testimony of the
23 witnesses and, of course, the cooperators.

24 There were various categories of witnesses in this
25 case. There were a lot of NYPD officers. Most of them, you

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1 can see the pattern, it became kind of repetitious; they
2 worked for 20 years, they retire, they go on to have a
3 different job. We had very few questions for the police
4 officers. A lot of them couldn't even remember exactly what
5 they were being asked about. They looked at their report,
6 it's refreshed, they describe whatever it was that they can
7 remember. And that went for the crime scene officers as
8 well; they collect ballistics, they put down the cones, they
9 take a lot of pictures, they put up the yellow tape, they
10 look for witnesses.

11 And we didn't have a challenge to most of those
12 individuals, because by the time they get there, the
13 shooting is already over. And as you can well imagine and
14 as you heard, there never seems to be any witnesses to these
15 shootings. And we can go through the names of the people
16 who testified who are on the scene of a murder and don't
17 provide any information at all that, "I heard a shooting" or
18 "we put our friend in a car and we took him to the
19 hospital."

20 So when the government tells you that it's not
21 just cooperators, you know, we've got plenty of
22 corroboration. What they've got is people who have been
23 shot to death, and cooperators are coming in and telling you
24 how that came about. That's sum and substance of what their
25 case is. When you take out all the police officers who are

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1 well meaning and doing their job, and you take out the
2 civilian witnesses who don't provide any description of
3 anybody for any of these murders. You cannot -- you can go
4 through the entire record, thousands of pages, how many days
5 we've been here, 60 witnesses. And no one said, "You know,
6 I can't identify the guy, but, you know, he was about 5'10",
7 he was in his 20's, he was about 190 pounds," you know,
8 something which would corroborate what the cooperators are
9 telling you. And maybe they can't identify the person. Or
10 maybe it never gets to putting anybody in a lineup.

11 But there are such things as lineups, you've seen
12 some of them in this case. They take pictures, six pictures
13 of people and say, you know, look at these pictures; we have
14 a suspect, see if you can see anybody who was involved with
15 the crime. You know, we've been here for weeks. You didn't
16 hear anything like that.

17 So when you hear the government say, don't worry,
18 we can corroborate the evidence that the cooperators have
19 testified to you, you can say, well, bring it on, you know,
20 where is it?

21 So we have civilians testifying; don't have
22 proffer agreements, regular citizens who aren't criminals
23 who provide some corroboration that there was a shooting or
24 a murder, but they don't help you solve the crime.

25 All right. So, obviously, I'm going to talk about

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1 the cooperators, which is the heart and sole of their case.
2 They're all -- they're all criminals. Many of them told you
3 right up front, I'm facing life. I committed murder. I did
4 robberies. I sold drugs. I chain snatched. I stabbed
5 people. I hit people with car jacks and -- but I'm hear to
6 tell you the truth. So obviously, you have to make an
7 evaluation of whether they are telling you the truth.

8 And by and large, by and large they are
9 individuals who, when they were on the street, they didn't
10 care a fig about the truth. When they were apprehended by
11 the police they didn't say, oh, you know, you got me, I did
12 it, take me away. They didn't do that. They ran from
13 parole officers. They lied to probation officers. They
14 resisted arrest. When they were told that the police were
15 after them, they took off. They lied to judges sometimes
16 and took responsibility for things they didn't do that other
17 people had done. I mean, truth was not on their menu.

18 And we're expected to believe that they come into
19 court after being in jail for ten years and say, yeah, you
20 know, I'm a changed person. I'm -- you know, I used to do
21 that stuff, but I'm done with that. I'm hear to tell you
22 the truth. They lie to each other.

23 And you know what? If I'm facing life in jail in
24 federal prison where I'm never getting out, no parole,
25 that's it, you die in federal prison somewhere in the United

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1 States, some federal prison, you know, maybe, you know, I'd
2 sign up to be a cooperator, too. Because that's their only
3 option. That's their only option is to cooperate and to
4 provide what is called substantial assistance.

5 And in every one of the corporation agreements --
6 and I'm certainly not going to go back over them now,
7 because we spent plenty of time during the trial going over
8 what the agreements said and what other crimes were covered
9 for each of these individuals. And it let's you know the
10 enormous power of your United States government.

11 I am not saying they have done anything wrong.
12 This is how they choose to approach the case. This is how
13 they tried the case. It's all proper. It's all written
14 out. It's all okay. They can do that.

15 But you don't have to believe the cooperators,
16 just because they've made an agreement. The Judge told you
17 yesterday, page 13 of the Judge's charge, Section 5K1
18 provides that the government can make a motion, which can be
19 in the form of a letter, stating that the defendant has
20 provided substantial assistance in the investigation or
21 prosecution of another person. That is critical. Break
22 that down.

23 It's not just you go in and you say, I did this, I
24 did that. The government says, well, we know that, we
25 arrested you. We know that you've done bad stuff. What

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1 about other people? What about providing substantial
2 assistance in the investigation or prosecution of another
3 person?

4 Oh, you want me to help you a lot, substantial,
5 great, significant assistance, help. You want a lot of help
6 prosecuting another person or other persons? Okay. Okay.

7 Is that what I need to get my letter? Well,
8 that's one of the things that you need.

9 And who makes that judgment? The United States
10 Attorney's office makes the judgment as to whether they have
11 provided substantial assistance and whether they are going
12 to write to a Federal Judge, which would break the mandatory
13 minimum, eliminate the necessity of doing life imprisonment,
14 and give all these individuals an opportunity to get out.

15 Because, two rules of jail: If you're in jail,
16 you want to get out of jail. And if you're on the street
17 and you're being accused of something, you don't want to go
18 to jail. Or if you're out on bail, as some of the
19 cooperators are in this case, you don't want to go back into
20 jail. You've gotten kind of used to being out on the street
21 and you prefer to remain out on the street and not go back
22 to federal prison.

23 So, you know, the question is whether you believe
24 it. And the question is how do I evaluate their testimony?

25 And a learned judge told you yesterday at page 14

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1 of the charge, "It's also the case however that this
2 testimony, cooperator testimony, is of such a nature, it
3 must be scrutinized with great care. Scrutinized with great
4 care and viewed with particular caution when you decide how
5 much of the testimony to believe."

6 And you also have to determine, as the judge has
7 told you, was the witness motivated to construct plausible
8 lies? In other words, believable stuff. Not the truth, but
9 something that sounds close enough to the truth, in the hope
10 that the lies would not be detected, and that he would
11 receive the benefit of the corporation agreement.

12 So can you figure out what to tell the government
13 about what another person did, bad things about what another
14 person did, which isn't true, but that will get you your 5K,
15 which is what you are really trying to obtain.

16 So all the witnesses are saying exactly the same
17 thing. Has anything been promised to you? No. What's
18 going to happen if you lie? We're going tear up your
19 agreement. And what happens if we write a letter? Well,
20 it's up to the judge. And have you been promised a
21 particular sentence? No, I haven't. What sentence would
22 you like? Well, it's up to the judge. And push a little
23 further, what sentence would you like, How about time
24 served? Yeah, that would be okay. Time served, you know,
25 you can let me out of jail. That would be okay with me.

CLOSING STATEMENTS BY MR. HERMAN

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1 And some of them were asked, you know, are you ready? Have
2 you done enough time? I was waiting for one of them to say,
3 "You know what, I'm a really bad guy, I've killed people. I
4 don't think I should be out on the streets in five or ten
5 years." But you can wait forever for that.

6 All of them are saying, no, I'm ready to go back,
7 I'm rehabilitated, I had some peer pressure, I made some
8 mistakes, I was youthful. But, you know, I paid my debt to
9 society, and don't worry about me.

10 In fact, I think Boo told us he's going to be an
11 electrician. This is Boo Bryant, who I'll talk about in a
12 second. So don't worry about that. In a couple of years if
13 Boo gets out and you have a problem and you need a lamp
14 fixed or something, Boo Bryant will be available to come and
15 help you out. You may not want that kind of help, but, I
16 mean, that's what we're talking about. We're talking about
17 the power of the United States government to give
18 individuals a chance; and we don't know if it's going to
19 happen or not, a chance to be out among us again. That's
20 what we're talking about. And they all took the chance.

21 Okay. Who are the cooperators? Government
22 Exhibit Number 5, Boo Bryant. He was one of the first
23 witnesses in the case. He's now 40 years of age. High
24 ranking member of Cash Money Brothers. He's also up here.
25 We've got -- you can see him either way.

CLOSING STATEMENTS BY MR. HERMAN

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1 He killed several people. He told you, he didn't
2 seem to be ashamed of it. He wasn't trying to kind of soft
3 play it. He killed a guy named Butchie for money. I think
4 that was his girlfriend's uncle or something, Butchie, shot
5 him in the head.

6 Of course he -- we know he shot Tyrone Baum,
7 T-Rock in the head. We heard all about that. And he was
8 involved with Steven Brewer. A bunch of guys shot and
9 killed Steven Brewer.

10 At the age of 14 he had an incident with a female,
11 and there was something going on back and forth, he shoots
12 her in the stomach. He told you he stole from his own
13 workers. I mean, you got -- you know, you've got to think
14 about someone like that who is in the drug business and has
15 young people working for him and he's giving them drugs to
16 sell; and then when they're not looking, he steals the drugs
17 back and he says, oh, you lost your drugs, I guess you'll
18 have to work for free. That was his way of operating on the
19 street.

20 He tells you a lot about guns, and I'll talk about
21 that in a second, because that might be significant to you.
22 Which guns were used? Who's guns were they? Can you match
23 up the bullets from one crime scene to the another, what
24 does that tell you? He tells you a lot about guns; TEC 9's
25 MAK 11's, 9mm's, 357's.

CLOSING STATEMENTS BY MR. HERMAN

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1 He committed crimes in jail. He had a razor in
2 jail. He cut people in jail. He also wrote a book in jail.
3 He was the guy that was going to -- he was a little bit
4 concerned about the copyright laws, he wasn't too concerned
5 about the federal laws. He's concerned about copyright laws
6 and not being able to make money on the book he was writing.

7 (Continued on the next page.)
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SUMMATION BY MR. HERMAN

2870

1 MR. HERMAN: He shot someone named Baby Ellie. He
2 shot Melvin. Melvin was a guy who was trying to become a
3 member of the Cash Money Brothers. Apparently, they get
4 Melvin to shoot somebody, I think it was Supreme, and that's
5 his kind of initiation. And then Melvin gets closer to them
6 and they think that Melvin is stealing money from the group.
7 So Boo shoots Melvin three times in the chest, the arm and
8 the leg.

9 He shot someone. And he admitted all of this. He
10 admitted all of this. He shot someone named William Wells in
11 the head. I never thought you could be shot in the head and
12 live, but this case has taught me that you can be. He shoot
13 Williams Wells in the head obviously trying to kill him. He
14 lives, William Wells, and Boo pleads guilty and gets five
15 years in jail for shooting William Wells in the head. And
16 apparently gives a gun to this fellow Dante who winds up
17 shooting Theresa, which is something the government just
18 discussed. Theresa is the woman who saw the murder of a
19 friend. Testifies against Fruitquan, subsequently gets shot.
20 She gets shot apparently by someone named Dante. Dante gets
21 the gun from the electrician Boo.

22 Mr. Sarkissian, do we have a picture of him?
23 You're not going to forget Puff Sarkissian for several
24 reasons. If you can figure out what goes on in his head, I
25 think you'd get some type of psychological award.

SUMMATION BY MR. HERMAN

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1 Sarkissian, you'll remember, comes from a privileged family.
2 His family apparently has money. Goes to private school
3 upstate. Goes to college. And gets a stockbroker license.

4 Mr. Sarkissian is a stockbroker, and lives in an
5 apartment paid for by his family and is driving around in a
6 car which his grandmother gives him which costs \$70,000.
7 This is the drop-top Benz.

8 So, you know, he has a chance at having a decent
9 life. He doesn't have to deal drugs or get involved in a
10 lot of other activities. He's got some choices. And his
11 choice is to stop being a stockbroker, to hang around with
12 Taz, to go to strip clubs, to sell drugs, to give Taz
13 \$30,000. He doesn't invest it. He gives it to a drug
14 dealer who at the time he didn't even know his name. He
15 later learns his name, Edward Cooke. I'll give him \$30,000
16 which I got from my grandmother to Taz in an effort to try
17 and make a lot of money, which of course doesn't work out
18 because Taz takes the money and does what he does with it
19 and Puff gets deeper and deeper into this until he's hanging
20 around with individuals at LG, at Lafayette Gardens.

21 And then gets involved in some crazy schemes where
22 they impersonate police officers. Remember that? Where
23 they would get badges and lights and then they started
24 shaking down individuals who had -- looked like they might
25 have money coming out of clubs, jewelry, other valuables.

SUMMATION BY MR. HERMAN

2872

1 And then they move on to shaking down prostitutes. And the
2 whole time they are pretending to be police officers and
3 apparently doing a pretty good job, because they are
4 convincing prostitutes who are pretty street smart, you
5 would think. I'm an undercover cop and I want you off the
6 street.

7 And when the prostitutes don't move off the
8 street, they come around and they pretend to arrest them
9 because they are not police officers, but the prostitutes
10 think they are. This is all in an effort to get free sex
11 from the prostitute. And I said to -- I think I said
12 to -- somebody asked you about, well, did you do this for
13 money that you didn't want to pay for sexual favors? No.
14 We just did it for -- to show the power that we had.

15 And he also gets involved in that scheme with the
16 PlayStations and winds up shooting somebody who dies. This
17 is a guy who starts off being a stockbroker and winds up
18 looking at life imprisonment for federal offenses. And the
19 government says, well, yeah, you can believe him. He is so
20 good at lying that he can fool prostitutes who think that
21 he's a police officer.

22 And then he gets arrested years later after he
23 kind of goes straight again. He gets his real estate
24 license, I think, or some other type of license. He is
25 doing legitimate work. But somehow he's got loaded guns in

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2873

1 his apartment and when the police come, they seize two guns
2 from Mr. Sarkissian. So if you can figure out what he's all
3 about other than someone who got completely over his head in
4 a lot of illegal activities and apparently was just
5 completely naive, because it sounds like Taz was just taking
6 advantage of him because he had money and had a car and was
7 willing to go along with whatever scheme seemed to be
8 appropriate at the moment.

9 You remember Shelby Henderson? He looked a little
10 different when he came into court. He is now -- he is 57
11 years old. He is out on bail. He is probably too old to
12 get involved in the type of activities that he once got
13 involved with. He was the one who told us he had never
14 heard of Cash Money Brothers until after he got arrested.
15 He was the one who killed someone when he was 19. Stabbed a
16 guy in the heart, he said, and I think he said he got a zip
17 3 for that murder. He was an expert at fraud; check fraud,
18 welfare fraud, credit card fraud.

19 Fraud. Fraud means lying, that's what fraud
20 means. Fraud means getting something that belongs to
21 somebody else by lying about it. Either your identity or
22 their identity or somehow working the system so that you get
23 someone else's money which he was adept at.

24 And then he also had this violent streak which
25 was, I think, shocking. That he attacked a woman who came

SUMMATION BY MR. HERMAN

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1 up to him or something, some situation, and he says he beat
2 her senseless with a jack. It's almost hard to imagine some
3 of the things you've heard here. And it's too bad that we
4 had to sit here for a month and hear this stuff. But that's
5 what he told you. There's no reason to believe it was
6 otherwise.

7 Someone else he beat up with a tire jack, I think.
8 Several people with -- he called it a Chinese blackjack,
9 whatever that is. It sounds pretty menacing. He would
10 wield that and beat people with that item. He seems to
11 portray himself as some type of religious figure. He's kind
12 of a religious advisor to the individuals that he's
13 associating with. He's not a member of Cash Money Brothers
14 because he never heard of it, but he's kind of providing
15 spiritual guidance, I guess. And in some, I would suggest,
16 very warped way.

17 I don't doubt he's got true religious beliefs, he
18 probably does, but they are completely inconsistent with
19 someone who commits fraud, who hits people with a blackjack
20 and who hangs around with other individuals who are dealing
21 drugs and shooting people. So somehow he's reconciled that
22 in his mind, that's okay. I can have my religious beliefs,
23 I can try to proselytize other people to join my religion,
24 and at the same time I'm a witness to, if not a participant
25 in, all manner of criminal behavior.

SUMMATION BY MR. HERMAN

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1 I think what's most important is that he's not
2 really included in a lot of stuff, and most of what he
3 talked about in front of you, what he testified about, was
4 through this fellow Taz who I'll get to in a second. And he
5 said he had blind love for Taz. I don't even know what that
6 means other than he hung around with Taz a lot and Taz was
7 telling him things. And that's what he told you. That's
8 really what that was all about.

9 We heard from Troub -- that's Government Exhibit
10 8 -- Robert Footman. He's now 38 years of age. He's out.
11 He's out. The government agreed, as they can do, he put up
12 some type of bail package. The government said we agree,
13 you can be out on the street. We need you to cooperate,
14 which he did. We need you to come in and testify. We need
15 you to talk to us. And then there was some problem with his
16 bail condition, some problem with his wife or ex-wife or his
17 curfew or something, and that got kind of smoothed over.

18 So he's got his six children that he says he's
19 trying to support. He actually has a child from the time he
20 gets arrested and he gets released, he has a two year old
21 now that he's been on the street. Obviously, he likes being
22 on street and doesn't want to come back to jail. He was
23 someone who kind of went back and forth from Coney Island
24 where he knows E-Bay to Brooklyn, Lafayette Gardens.

25 And it wasn't clear -- maybe it was clear to you,

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1 I suggest it's not clear -- as to when he's dealing drugs
2 for himself and when he's dealing drugs with his brothers,
3 his family members, over in Coney Island. He is supposedly
4 a good friend of E-Bay. He was E-Bay's best friend. But I
5 did ask him about when E-Bay got shot in February of 2004
6 and he was in the building in Coney Island and E-Bay gets
7 into an elevator and E-Bay gets shot. And I asked him
8 whether he had anything to do with that. He said I had
9 nothing to do with that.

10 Then E-Bay goes to the hospital and might die. I
11 asked Troub did you go visit E-Bay in the hospital, your
12 best friend? He said, no, I didn't. I didn't get over to
13 the hospital to see him. You can put that in the mix
14 somehow.

15 You can also put in the mix, and you'll have his
16 cooperation agreement, all the crimes that he committed for
17 which he will not be prosecuted. And it's lengthy and it's
18 extensive. And, you know, we all know that he shot this
19 fellow Munchie, Markell Kennedy, over the Marcy Projects.
20 And as a result of Footman shooting Munchie, Munchie is now
21 paralyzed. And at some point he runs into Munchie who is in
22 a wheelchair, and Munchie says, you know, could you help me
23 out, I guess meaning you shot me, I can't work, I'm in a
24 wheelchair. And Mr. Footman has, like, a hundred-dollar
25 bill and he gives it to Munchie, you know. I'm sorry I shot

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2877

1 you and you're in a wheelchair, Munchie. Here's a hundred
2 dollars.

3 Which leads me now to Thor, who was the fellow you
4 heard for several days this week, Dwayne Myers. He is 45
5 years of age now. He's turned over a new leaf. He is ready
6 to be released. He was under some peer pressure he said
7 when he was out on the street. Peer pressure is like when
8 your friends say why don't you try a cigarette or why don't
9 we go have a drink if you're underage. Peer pressure isn't
10 shooting and killing people. That's just being a criminal.
11 That's just being a heartless individual.

12 And I think what you got from Thor -- and Thor
13 kind of wraps up the government's case. You know, if they
14 need someone, Thor is there to say, E-Bay told me that.
15 E-Bay told me he shot this one. And then I arrived and I
16 saw this shooting. And then I talked to E-Bay, and he said,
17 oh, I took care of that guy. Thor is like the baseball
18 player who said put me in, coach, I can pitch. I can play
19 second base. You know, I'll sell popcorn. What do you need
20 from me? That's Thor.

21 And I submit to you, it was an act. He's a
22 phoney. When he was asked about Wise being shot, he put his
23 head down, he was tearing up. Wise was his good friend.
24 I'm sure he's upset that Wise was shot and he was there, but
25 he liked to drag things out. He liked to be dramatic.

SUMMATION BY MR. HERMAN

2878

1 He's playing you, okay. I submit to you, he's
2 just playing you on whatever sympathies. And he gives you a
3 lot of detail which can't be challenged and makes it sound
4 like he really knows what he's talking about, but it
5 doesn't. He'll say the -- the prosecutor will ask him a
6 question and he'll say, yeah, it was a hot summer day and I
7 took a walk on this street and I went to this store and I
8 got a bottle of cold water. That's fine. Who is going to
9 challenge that? But that makes it sound like it's the
10 truth, because it's all these little details. But it
11 doesn't mean it's the truth. It means he knows how to put
12 it across to you. And he did it for several days this week.

13 But while he's putting it across to you, remember
14 that he was one of the people who was potentially facing the
15 death penalty. And nobody, nobody on trial, and nobody who
16 testified is now facing the death penalty, but for some of
17 these witnesses, some of these cooperators, they told you,
18 yeah, it was a possibility. I was told that the death
19 penalty was a possibility for me. And several of them said,
20 yeah, I cooperated and that was one of the reasons that I
21 cooperated, which I agree with them, that's a very good
22 reason to cooperate.

23 Thor tells you -- this is the guy, he is crying,
24 he's upset about his friend Wise who gets shot. Three days
25 later, he blows away this guy, Kojack. He just blows him

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1 away. Empties his gun into Kojack. What had Kojack done?
2 Kojack apparently, allegedly, supposedly had given the gun
3 to Nino who shot Wise. That's what he knows about Kojack.

4 So three days after Wise gets shot and Wise is
5 still alive, Dwayne Myers, who is all upset and, you know,
6 very emotional, shows no emotion and blows away Kojack. He
7 tells you he's a former crack addict. He told you that
8 somehow he's arrested for Crazy Troy which he says he didn't
9 do, but he lined up an alibi just in case.

10 Thor is always thinking around the corner. He is
11 always one step ahead of everybody else. He's looking at
12 people. He knows what's going to happen. He is going to
13 head them off. He is going to outsmart everybody. He is
14 involved with the roller rink murder. He was involved with
15 the PlayStation scheme with Puff where somebody gets killed.

16 He did so many armed robberies, he can't remember
17 all the people that he robbed. He's been robbing people
18 since he was 15. He is doing chain snatches. He is going
19 up to people waiting for a subway or train and sticking a
20 gun and said give me all your money. He doesn't even know
21 how many times he did that.

22 And he's in jail. People are sending him money,
23 according to the records that we have that went into
24 evidence, you can see it. Somehow during the course of the
25 jail, people sent him \$37,000 while he's in jail. And he

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1 says, well, that's because I'm a maid. I make people's
2 beds. You can decide for that -- oh, and I take the money
3 and I send it to my child who is staying with my sister or
4 something. You know, I'm not sending it to the people I
5 robbed. I'm not sending it to Kojack's family and saying
6 I'm sorry I blew away your brother, your uncle, your father,
7 here's some money.

8 I'm glad -- it's a good thing that he's supporting
9 his daughter and making money in jail somehow, but you can
10 see how he thinks. It's all about him. It's all about
11 Thor.

12 And Government Exhibit 19, this is Taz. Take a
13 good look at Taz. You heard a lot about Taz, Edward Cooke.
14 He didn't testify. The government doesn't have to call
15 every witness, they don't. And you can decide the case
16 based on the evidence or the lack of evidence. You didn't
17 hear from Taz. We didn't call Taz. They didn't call Taz.

18 There he is. He's a source of a lot of
19 information in this case. I talked to Taz. Taz told me
20 this. I was with Taz. Taz was involved in this.

21 But it's a zero. You can't think about what would
22 Taz say because he's not here. Didn't testify. You'll have
23 some documents about Taz's background which the Judge
24 explained to you yesterday which you can use to evaluate
25 what he supposedly said to people, but he's gone. He never

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2881

1 was here.

2 Okay. What's the role of E-Bay? The government
3 says he worked his way up to become hit man. He is the hit
4 man. And the only time he's not a hit man is when he's in
5 jail and then other people become the hitmen and then he
6 comes out and he becomes the hit man again.

7 And some people said, no, he's selling drugs.
8 He's selling in the graveyard shift. And Sambo says he was
9 a lieutenant. And Uasia Davis says I never saw him -- never
10 saw E-Bay selling drugs. And DJ McMillan says I didn't see
11 E-Bay around all that much. And Boo says he was like an
12 underling. He was around and he would sell some drugs. And
13 Thor says, no, he was in charge, he was in charge of the
14 operation for a period of time until there was a problem
15 because we couldn't find E-Bay.

16 And Boo says I never called E-Bay. So he's the
17 hit man, the gunman, without a cellphone. I mean, of all
18 the phone records that you've seen in this case, there are
19 some Nextel records having to do with the murder for hire
20 where he says, hi, it's E-Bay. You can go through all the
21 other phone records, thousands of pages, you can look at the
22 charts, you don't see E-Bay's phone number because he
23 doesn't have a cellphone.

24 So if you think he's the hit man of the
25 organization -- and remember that the targets that they were

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1 looking for moved around. They were looking for Peanut.
2 They were looking for T-Rock. They were looking for Hommo.
3 So it's good to have a hit man who is actually available and
4 say, you know, hit man, we need you to come over here right
5 away. Come over in your car, which he doesn't have. Call
6 you on your cellphone, which he doesn't seem to have. Bring
7 your gun, which he doesn't have because all the guns are
8 being shared by everybody.

9 This is Footman on direct, page 1867. He says,
10 Robert Footman, Plenty of times when somebody wanted to do
11 something, it was, like, like plenty of time when E-Bay
12 didn't want to hustle, for example. Like, Boo and Deeze put
13 guns to his head in the apartment because he didn't want to
14 go back down to the script. Says script.

15 Remember that? People putting guns to E-Bay's
16 head because he didn't want to go out and sell drugs. This
17 is the person that the government says, no, he's actually
18 the hit man for the Cash Money Brothers.

19 He's never caught with a gun. Never arrested with
20 a gun. Nobody -- uninvolved witness. No civilian ever
21 says, oh, I saw E-Bay ever committing any kind of crime.
22 And I told you there's no telephone records. He was on
23 parole. We brought in his parole officer. You can take
24 that for whatever you want. Can people commit crimes on
25 parole? Of course. We've seen them. We've seen how people

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1 are on parole and how they lie to their parole officer, and
2 they are hanging around with bad guys and they are dealing
3 drugs and they are on the run.

4 So the fact that his parole officer, who seemed to
5 be a straight enough guy, 17 years -- now he's a senior
6 parole officer -- said, yeah, I went to see E-Bay. I
7 thought his name was Eric Moore. I got to his house. Turns
8 out that wasn't his real name. I came back. There is E-Bay
9 at the house. He is on parole for a period of time. He is
10 on parole when he's allegedly committing these murders, he's
11 on parole.

12 Can you commit murder while you're on parole?
13 Yes. We didn't call the parole officer to say impossible,
14 but it's a factor that you can take into consideration that
15 E-Bay is on parole. Someone is watching him. Someone is
16 keeping track of his whereabouts. And he gets released
17 early because he's done well on parole. It's a factor.
18 It's something that you have to take into account when you
19 go back to the jury room.

20 Did E-Bay have a car? There's no evidence he had
21 a car. Somebody says I once saw him driving the drop-top
22 Benz. Someone said I saw him driving a van. You heard a
23 lot about cars in this case, fancy cars. And many of the
24 individuals associated with this group, you know, had Range
25 Rovers, had expensive cars. There is no evidence that E-Bay

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1 ever had a license.

2 So what are you looking for now as you compare the
3 evidence, the witnesses against each other and the witnesses
4 about what they have said at other times and what they have
5 said here in court? And does the witness's testimony
6 comport with other things that you've heard about the case?

7 And there's been some -- the Assistant
8 United States Attorney mentioned this isn't a DNA case.
9 There's no DNA, obviously. There's no fingerprints.
10 There's no scientific evidence other than the ballistics.
11 And you might think, well, now we're onto something because
12 the officer came in, the ballistics officer, Mr. -- I forgot
13 his name. He came in, and he examined all the ballistics
14 from a lot of different shootings and murders. Didn't have
15 any guns so he can't shoot the gun and get the bullet or the
16 casing and match it up.

17 But there were ballistics matches that he found,
18 which in a particular case might really be significant. If
19 the ballistics from the Ivery Davis murder matched the
20 ballistics that were used for Lamale Lawson and they matched
21 another shooting, there was an unrelated shooting of a car,
22 malicious mischief which you heard about, those ballistics
23 mapped. So one gun was used in all those three instances.

24 So then the question is -- this is Boo Bryant.
25 The question is, can we associate a gun with a person? In

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1 other words, obviously, if this is E-Bay's gun and he's the
2 only one who uses the gun and the gun is used in this crime,
3 in this crime, in this crime, you might say, well, okay,
4 that would lead me to believe that it's E-Bay who is doing
5 all the shooting. But you know what, it's exactly the
6 opposite. I found this testimony; this is from Boo Bryant.

7 Page 480. I'll excerpt it.

8 "Question: An early time, I think you're telling
9 us that people didn't actually own their own guns. They
10 would kind of borrow a gun from the group.

11 "Answer: That's right. That's right.

12 "Question: If someone needed a gun, they could
13 somehow arrange to get a gun; is that right?

14 "Answer: That's right."

15 Line 8.

16 "Question: And if a gun had been used in a crime
17 or let's say a murder, would an effort be made to get rid of
18 that gun so it couldn't be traced back?

19 "Answer: No. We never practiced that early on,
20 no.

21 "Question: So even though a gun had been used in
22 a murder, you might still keep it around for someone else to
23 use?

24 "Answer: Yes."

25 And it goes down, line 20, "At some point you sold

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1 your gun to get some money to buy drugs? Remember he talked
2 about that, he needed money, he sold his . .380?

3 "Answer: Yes.

4 "Question: But ordinarily that would be the
5 exception to sell a gun; is that right?

6 "Answer: Right."

7 Then it continued on 481, line 4.

8 "Even if they could be -- now, are you aware that
9 sometimes guns through ballistics can be tracked to a
10 particular crime?

11 "Answer: Yeah. But we seen through our
12 experience that it never was.

13 "Question: So that didn't happen?

14 "Answer: We seen guys get locked up with guns
15 that kill people and they were never charged with murder so
16 we didn't get rid of it.

17 "Question: All right. So you felt personally
18 pretty comfortable holding on to a gun and maybe even
19 reusing a gun which had been used in a murder?

20 "Answer: Yeah.

21 "Question: In your experience?

22 "Answer: Yes."

23 And we have 486. It goes on a little more on the
24 issue of guns. Page 486 of the transcript, this is still
25 Mr. Bryant, line 7.

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1 "Question: And was that your personal weapon?"

2 He's talking about a .9.

3 "Was that your personal weapon or was that a
4 weapon used by other members of the organization?

5 "Answer: That was the weapon that I collected
6 from one of Wise workers after he died and I came home.

7 "Question: So again I'll ask you, was that your
8 gun or was that a gun that other people could use?

9 "Answer: Other people could use it, yeah.

10 "Question: Okay. And Thor had a .40 caliber
11 weapon; is that your recollection?

12 "Answer: Yes."

13 "Question: Was that his gun or was that a gun
14 that other people could use as well?

15 "Answer: Other people can use it."

16 So in a particular case, ballistics might be, wow,
17 that's really important, that's really significant. I know
18 that gun was used in those crimes. I can link it to a gun
19 and I can link it to a person. You can't do that in this
20 case. You can try, but it doesn't work. It doesn't bring
21 the gun back to E-Bay, and it doesn't preclude many other
22 people using the same gun. So that's all the ballistics
23 that we heard about. That's what it amounts to.

24 THE COURT: So I'll leave it up to you, Mr.
25 Herman. We've been going for about an hour and a half.

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1 Maybe the jurors and the Judge and you folks might like to
2 take a little break. Come back at 4:00 and then spend
3 whatever time you need to complete your summation.

4 Would that work for you?

5 MR. HERMAN: Yes.

6 THE COURT: All right. I think, Members of the
7 Jury, what probably is happening here is that I don't know
8 how much longer Mr. Herman has, but I suspect he'll be
9 finished before 5 o'clock. Timing wise, I think things have
10 worked out nicely. It's been a long day and a lot to absorb
11 actually. You're sitting and listening very attentively to
12 everything, which is what you should be doing.

13 I think the way it's going to work out is that
14 tomorrow morning we'll have Mr. Ruhnke's summation, we'll
15 have the rebuttal, and then that should probably give me the
16 opportunity to explain the rest of the charge to you. And
17 you may be able to get started with your deliberations,
18 maybe Monday, but it's tending that way. Be patient and
19 observant and we'll see you in 15 minutes.

20 THE COURTROOM DEPUTY: All rise.

21 (Jurors exit the courtroom.)

22 (Recess taken.)

23 (Jurors enter the courtroom.)

24 THE COURTROOM DEPUTY: You can all be seated.

25 THE COURT: All right. Mr. Herman, continue with

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1 your summation.

2 MR. HERMAN: Thank you, Judge.

3 Ladies and Gentlemen, when we broke, I was talking
4 about the way you look at evidence and whether it's
5 consistent and whether it's contradictory. I have one
6 example which I wanted to provide to you based on what you
7 heard at trial, and it had to do with Theresa Gregory. It's
8 not a big issue, but I think it illustrates the point.

9 Theresa Gregory, remember, was the woman who had
10 witnessed her friend being shot by Fruitquan Bailey. There
11 was some indication that she was going to be a witness
12 against Fruitquan. She says that -- and she did testify
13 actually at court and Fruitquan apparently was found guilty
14 of that murder. And she talks about -- and the government
15 mentioned it in their summation -- E-Bay confronted her in
16 an elevator in kind of maybe a threatening way or hostile
17 way. Although I think she says she wasn't threatened. But
18 you got the impression that E-Bay is trying to muscle her or
19 influence her before she testified.

20 But then when Boo Bryant testified and he was
21 asked about whether anyone tried to get to Theresa or
22 whether they got to Theresa before the trial, they said, no,
23 we couldn't find Theresa, we never got to Theresa. And
24 apparently some people were looking to influence Theresa not
25 to testify against their friend Fruitquan. But Boo says,

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1 no, no one ever got to Theresa and she testified. Now,
2 unfortunately, apparently, after she testified she is shot
3 by Dante perhaps as retaliation for her testifying.

4 So was she threatened by E-Bay? No. That's
5 another example of when you look at the whole picture, no,
6 there's no reason to believe that she was ever threatened by
7 E-Bay and that's what Boo said, that we never threatened.

8 And the other thing I think you have to be
9 concerned about are false accusations, which is essentially
10 what our position is in this case. Our position is that
11 individuals for their own reasons have falsely accused Aaron
12 Granton of being involved in these murders. We're not
13 saying he did the murders, but somebody had a gun to his
14 head, that he was being forced to do the murders or he did
15 them out of some other motive other than a gang-related
16 motive or that it was revenge. We're not saying that.
17 We're saying we simply didn't do these murders and people
18 are falsely accusing him.

19 Well, we heard a number of examples of how that
20 happens or has happened from the witnesses in this case.
21 I'll point to the example of Lamont Johnson, Sambo.
22 Remember Sambo gets shot. He goes to the hospital. He
23 comes out and he gets shot again. And he blames this guy
24 Rab.

25 He goes to the police and he says Rab shot me, and

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1 Rab had given this other fellow Fonso the gun, and he says
2 Rab had murdered somebody named Zak. He goes and he makes
3 up all these lies about someone that he doesn't like, this
4 guy Rab who is a member of a rival crew.

5 And Rab gets arrested. Based on what Sambo says
6 to the police, Rab gets arrested. And he's in jail. And
7 then Sambo says, well, I went to his lawyer and I told him
8 that I made up all this stuff. But meanwhile Rab has been
9 arrested, he's been charged, and he's facing serious charges
10 based on a lie. Now, Sambo told you exactly how it's done,
11 how you can get someone else in trouble by making something
12 up.

13 There's another example. And the prosecutor
14 talked about it, but we have a little different view of it.
15 This is Boo killing T-Rock. We know Boo killed T-Rock.
16 There is something about money involved. If Boo kills
17 T-Rock for money, if Taz is going to pay Boo money to kill
18 T-Rock, then Boo has to kickback money that he says to
19 World, because World is in charge of all this stuff.

20 So they make up a story, a lie, to tell World that
21 Azziz, whose name has been bandied about during this
22 trial -- he wasn't a witness in the case, Azziz, also known
23 as "Desperado" -- they make up a story and they tell World
24 that Desperado killed Boo -- I'm sorry, killed T-Rock, which
25 kind of is backwards in their world, in their society, where

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1 supposedly you take credit for things because that makes you
2 a big shot. But Boo says, no, I don't want to take credit
3 for killing T-Rock even though I did kill T-Rock. I'm going
4 to blame someone else, Azziz, and I'm going to tell World,
5 who he believes is a dangerous person, I'm going to lie to
6 World so I can get \$2500.

7 And someone else says, no, they lied to World
8 because they don't want to be paid for this. This is
9 something they are supposed to do because they work for
10 World. Either way. You can take it either way. But they
11 were prepared and did blame a murder on Mr. Azziz, on
12 Desperado, even though apparently he had nothing to do with
13 it.

14 So I don't have to come here and say, you know, do
15 people ever make up things and blame other people for
16 murders? Well, we know that. I mean, they told you that,
17 that they did that.

18 And then the third example which I talked about a
19 little bit before, it's Crazy Troy, where Thor gets arrested
20 for killing Crazy Troy but he's got a phoney alibi which
21 seems to work. So he gets -- he's in jail, but he gets
22 released. So somebody either intentionally or mistakenly
23 blames Thor for the killing of Crazy Troy. So does this
24 happen in the real world? Those are three times where it
25 happened where you know that someone either intentionally or

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1 mistakenly blamed somebody for a serious crime, and they
2 wind up going to jail or being prosecuted for the crime.

3 And then sometimes -- you know, we have the
4 example of Mr. Footman taking the wrap for somebody else's
5 drugs. I think it was his brother's drugs. And he goes to
6 court and he tells a judge in state court, those are my
7 drugs. It wasn't my brother's drugs. But that was a lie
8 because it was his brother's drugs.

9 And then Boo told this odd story of drugs being
10 found in his apartment which he shares with his sister. I
11 think it's his twin sister. He says, no, they weren't my
12 drugs; they were my sister's drugs.

13 So all this stuff gets very fuzzy and very
14 confusing when you begin to either take responsibility for
15 something you didn't do or blame someone else for something
16 that you did do.

17 Obviously, I'm going to talk about the murders.
18 I'm going to do that now. One thing you want to ask
19 yourself, which we tried to point out on cross-examination,
20 is the person who is testifying, were they there? Were you
21 there when the murder took place -- that would seem to be an
22 obvious question -- or did you hear about it from somebody
23 else? Because you can well imagine that when someone is
24 killed, there are a lot of people around. People hear about
25 it, and people are going to be talking about it.

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1 There's going to be a lot of -- they say the
2 streets are talking. People are talking about what
3 happened. And it becomes like that old game of telephone
4 where people are, you know -- you're in a circle and one
5 person tells one person something and that person hears that
6 and tells the next person. And when you get around to the
7 first person, the story has been changed in one way or
8 another.

9 So we like to ask, how do you know? How do you
10 know? Were you there? Or did you hear it from somebody
11 else?

12 On the Darryl Baum murder, we have a chart, just a
13 summary chart, not what everybody said. Were you there?
14 These were the people; Boo, Puffy, Sambo, Robert Footman,
15 Mu, Thor, Tanya Small and Corey Atkinson. They all
16 testified with what happened to Darryl Baum, Hommo. Boo was
17 there, he told you he was there. Puffy was there. He is
18 driving the getaway car, the drop-top Benz. Sambo wasn't
19 there, but he talked about it. Footman wasn't there, but he
20 talked about it. Mu wasn't there. He testified about it
21 based on what Taz told him who may or may not have been
22 there.

23 Thor testified about it. He wasn't there. Tanya
24 Small is the woman who was having a conversation I think
25 with her boyfriend Corey Atkinson. They were sitting in a

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1 car. There were several other people. There's a guy named
2 Lance who was there. There were two people who took Darryl
3 Baum to the hospital, they were there. There were two other
4 women who were interviewed by the police officer.

5 No one in this crowd of people says what happened.
6 Nobody saw the shooting. No one provides any description.
7 So again, we're left with cooperators. And the cooperators
8 we're left with is essentially Boo and Puff. And their
9 versions cannot be reconciled. This is one of those
10 examples where two people who see the same incident describe
11 it much differently.

12 Boo tells you, I think he said he was at his
13 girlfriend's house. He gets picked up by Taz. And then he
14 is supposed to kill Hommo, but he doesn't want to kill Hommo
15 because there's too many people out there. And then Puff is
16 supposed to kill Hommo, but there's too many people out
17 there.

18 So they have a phone call with Taz or with Thor.
19 Thor doesn't mention the phone call. Taz doesn't testify.
20 We don't know exactly how that happened, but supposedly
21 E-Bay is coming. This is E-Bay without a cellphone, without
22 a car, don't worry, E-Bay's going to come and do the job.

23 Now, where it gets problematic for you, I suggest,
24 is Boo says he's out there with a gun holding down E-Bay.
25 No question about it. He doesn't want to do the killing

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1 himself. Although he's perfectly capable of killing, he
2 doesn't want to do it himself, and he is out there with a
3 gun. Puff, who is driving the felony car, this very
4 distinctive car, Puff doesn't say something about Boo being
5 out there with a gun. He's got Boo in the front seat. They
6 are having these conversations on the car phone.

7 Boo never gets out of the car. E-Bay skips up,
8 does the shooting, gets into the car and has to go around
9 Boo because Boo is sitting in the front seat.

10 Two different versions of what happened. Cannot
11 be reconciled. It couldn't have happened both their ways.
12 Either Boo is out there with a gun, which I suggest to you
13 makes sense. Boo is out there with a gun and maybe Boo is
14 shooting. Maybe Boo with his . .380 is not just holding
15 down somebody; he is doing the shooting.

16 He says he is out there with a gun; he tells you
17 that. He tells you that he kills T-Rock later on. Is Boo
18 telling you the truth? Well, partially. Is Puffy telling
19 you the truth? Partially. The two stories, they don't add
20 up. The truth is, Ladies and Gentlemen, if the information
21 doesn't add up to you, that may very well mean in your mind
22 there's a doubt, there's a reasonable doubt, that you can't
23 reconcile the different versions of a particular incident
24 and you're left with saying, you know, I don't know exactly
25 what happened here and that creates a doubt.

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1 This is on the issue of the cellphone. This is
2 Boo Bryant, page 353 of the transcript.

3 "How would you communicate" -- line 3 -- "with
4 other members of Cash Money Brothers? If you didn't see
5 them, how did you get in touch with them?

6 "Phone."

7 Dropping down.

8 Line 16, "Do you know if E-Bay had one phone or
9 did he switch phones also?

10 This is very significant, this is Boo Bryant who
11 is highly placed in this alleged organization trying to get
12 a hold of the hit man. He says at line 18, "I don't
13 remember ever calling E-Bay. I don't remember having E-Bay
14 number."

15 You can go back over that if you think it's
16 significant, but that makes the point, as other people made,
17 that E-Bay is hard to get ahold of. E-Bay is not around.
18 E-Bay doesn't have a cellphone.

19 All right. I'll move on to the murder of JR
20 Hamilton. This is the Filet of Sole murder where he's the
21 proprietor of that storefront restaurant. He is shot in his
22 restaurant. It's about 11 o'clock at night.

23 The people -- again, who knows about this? A lot
24 of people talked about it. A lot of people talked about it.
25 Boo wasn't there. Puffy wasn't there. They talked about

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1 it, but they weren't there. Sambo wasn't there. Footman
2 wasn't there. Mu, Mohammed Ali, says that beforehand they
3 drove by the restaurant. He is with Taz. He is with E-Bay.
4 They see JR Hamilton in the restaurant. They go back to I
5 guess it's Shelby Henderson's apartment. E-Bay gets a gun,
6 puts on a bulletproof vest and apparently takes off
7 somewhere, but nobody sees -- nobody in the group sees the
8 shooting.

9 And Taz hasn't testified. Azziz hasn't testified.
10 There was the brother Ulysses, who is apparently around,
11 this is JR Hamilton's brother Ulysses, who was near the
12 store. We don't know what he saw. We have no idea what
13 that is.

14 We do know there's two people in the restaurant.
15 This becomes extremely significant. There's James Davis,
16 who is the refrigerator repair guy who was apparently
17 working on a refrigerator. And he and JR Hamilton are
18 buddies. JR Hamilton is going to have a whiskey or
19 something. James Davis doesn't drink. They are going to
20 sit at the table and hang out a little bit.

21 And Jarret Jamison is another uninvolved witness
22 who is an employee of the fish store. And both of them tell
23 you the shooting comes from the outside. The gunman is
24 outside and he is shooting through the window. And you know
25 this is true because you saw the picture. There's holes in

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1 the window. There's four holes in the window where the
2 bullets went through. And there's unfired shells outside
3 the fish store. So that's a situation where you know what
4 the setup is and you know what happened.

5 Now, what's the problem with that? The problem
6 with that is that the urban legend is -- and Mu testified as
7 to this and other witnesses testified -- that what happened
8 was that the shooter, and they say it's E-Bay, the shooter
9 went into the store, tried to shoot. The gun jammed. He
10 goes outside, he clears the gun. Goes back into the store.
11 Gun jams. He goes out.

12 This happens twice according to Boo, and this is
13 the quote about him having a lot of heart, you know, that he
14 supposedly goes into the store, tries to shoot,
15 unsuccessful. Clears the gun, back in the store, gun jams.
16 Clears the gun, back in the store and shoots JR Hamilton.

17 That didn't happen. Whatever happened that night,
18 the two people who worked there or the refrigerator guy and
19 the employee never say anybody went into the store. That's
20 just somebody made that up and told somebody else who told
21 somebody else and they come into court like it's a fact,
22 like, sure, that's what happened. Were you there? No, I
23 wasn't there. I heard it from Taz. Was Taz there? I don't
24 know if Taz was there.

25 And then they say -- you know, reliance, Ladies

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1 and Gentlemen. You're a jury. You know, you can rely on
2 what somebody told somebody else which can't be true. Can't
3 be true. It's belied by the physical evidence. And the two
4 people who have no ax to grind, who were just in a store
5 when somebody gets killed, never say anybody came into the
6 store. Didn't happen. And they were watching what was
7 going on. And all the bullets are coming from outside the
8 store.

9 So all the people who said I know what happened
10 because someone told me what happened, I say back to them,
11 you do not know what happened. And you may think you're
12 telling the truth, you may think you are. You just don't
13 know what you're talking about.

14 So the government says, well, we have E-Bay.
15 Their main witness in this case is E-Bay. E-Bay told me
16 that he did this. And E-Bay told me that he shot this guy.
17 And E-Bay told me we took care of this guy. And, you know,
18 what are we supposed to do with that? Someone comes in and
19 says I spoke to E-Bay, and he told me that he shot JR
20 Hamilton or he shot Hommo. And then we're stuck with, well,
21 no, he didn't and, yes, he did.

22 And then you have to look at the person who is
23 talking to you and what their stake in it is and what their
24 need for cooperation is and how they are going to provide
25 substantial assistance. Sure. E-Bay told me. That becomes

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1 the fallback position, E-Bay confessed to me that he did the
2 shooting.

3 And there's another aspect to this which we asked
4 some of the witnesses about. In February of 2004, E-Bay, as
5 I mentioned before, is in an elevator at Coney Island. Gets
6 shot in the head. And people think he's going to die. And
7 at that point -- and it doesn't really develop fully until
8 later -- but at that point it's obviously easy to begin the
9 rumor that E-Bay did this and E-Bay did that, because E-Bay
10 is going to die. Then we've solved all these unsolved
11 murders and we can always blame E-Bay.

12 Now, he doesn't die. He's here. He survives.
13 But that's where some of these stories got started. And
14 when the people later on are asked, well, what happened,
15 well, E-Bay did it. And some of these cooperators did have
16 a chance to talk to each other. They were in jail together.
17 They did have codefendant meetings. They did have an
18 opportunity to discuss what happened or what their futures
19 might be.

20 So when you're left with, well, E-Bay told me,
21 well, take that however you want to take it. Is that proof
22 beyond a reasonable doubt? That's going to be your
23 decision.

24 Ivery Davis, a similar type of situation. He is
25 shot in his Range Rover. We know all about that. He is at

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1 the club NV. His car goes careening up the street and then
2 unfortunately runs into Mr. Camitz. And Mr. Camitz dies as
3 well. There was -- who saw that? Who knows firsthand what
4 happened to Ivery Davis? Very notorious crime. Very awful
5 type of situation especially since a completely innocent
6 person -- two people died that night. One of them is in the
7 wrong place at the wrong time.

8 Plenty of people talked about it. Boo talked
9 about it. Puffy, Sambo, Footman, Mu, Thor, Uasia Davis.
10 Dale Simon and Jamal Ashby. Now, Dale Simon and Jamal Ashby
11 were actually there. One guy had the green Range Rover and
12 is almost shot. And I think that was Dale Simon. And Jamal
13 Ashby, they are both right around the same situation. They
14 don't provide any description of any shooter or anybody that
15 the police could begin to look for.

16 Everyone else except Thor hears about it from
17 somebody else. Maybe they hear about it from E-Bay. Maybe
18 they hear about it from Taz who wasn't there. Maybe they
19 hear about it from someone who heard about it from somebody
20 else.

21 So are they lying? They may not be lying, but
22 they just don't know. And they are allowed -- as the Judge
23 told you, if you're in a conspiracy with somebody, you can
24 say what they told you. You don't have to have firsthand
25 information. You can say I had a discussion with somebody,

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1 Taz or Thor or somebody, and this is what I heard, even
2 though they weren't there.

3 Now, Thor, again, he's kind of everywhere. Thor
4 tells this story this week. He is supposed to do a robbery.
5 He is at home. He says Damion Hardy calls him up to do a
6 robbery, and he really doesn't want to do a robbery. But
7 then he goes to Manhattan anyway.

8 And somebody he doesn't know gives him two guns
9 and says these are from Damion Hardy. And one of the guns
10 happens to be the gun that was previously used in a murder.
11 Then he goes home to Brooklyn.

12 Then Damion Hardy calls and says guess what, I've
13 seen Peanut. So now Peanut that they have been looking for
14 for months and months, they have now spotted Peanut so we're
15 told. And Thor doesn't really believe that. He thinks he
16 is being pulled into some robbery he doesn't want to do.

17 He says, well, let's get E-Bay. But of course
18 they can't get ahold of E-Bay. They don't know where his
19 phone is. So they go to Jimbo. And Jimbo gets ahold of
20 E-Bay. And Thor gives him a gun which apparently he's not
21 already carrying. It's a gun he gets from Thor which Thor
22 got from this guy outside the club which supposedly came
23 from Damion Hardy.

24 All this happens. And then Thor goes home and
25 says I'm not going to go out anymore. Then he goes back to

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1 Manhattan. This is all between about 1:30 and 4:00 in the
2 morning. 4:00 a.m. is outside the club NV when Ivery Davis
3 gets shot.

4 And he gets there and he sees E-Bay, but he
5 doesn't actually see the shooting, so he says. He sees
6 E-Bay and he sees Damion Hardy, and Ivery Davis gets shot
7 and then careens down the street and runs into poor
8 Mr. Camitz.

9 There is the ballistics match of that gun with the
10 Gates Avenue party. But again, it could be anybody's gun.
11 The government says, well, E-Bay confessed to Boo and told
12 Boo that we got Tito, as if that's some secret name. Other
13 people said, yeah, we called Peanut "Tito." So that's not a
14 mystery.

15 He confesses to Troub his good friend Troub yeah,
16 we got Tito. Confesses to Mu, I shot him. All these
17 people, very conveniently, E-Bay confesses to them and then
18 they come into court and tell you what they heard. What
19 they don't tell you is a lot of people were talking about
20 the same situation. It was on the news and obviously it was
21 a very awful event which many people like to talk about.

22 Another peculiar thing is E-Bay is supposedly
23 worried because he's on the train and he sees Kenneth
24 Glover, "Shay Black." Kenneth Glover testifies in this
25 case. And he's worried because he saw Shay Black and Shay

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1 Black can identify him, and he is going to see him on the
2 train. This is E-Bay going back on the train after doing a
3 murder. He is going back on the train and he sees Shay
4 Black and he is really worried about that supposedly.

5 So the government finds Shay black and they bring
6 him in here, Kenneth Glover. And Kenneth Glover says --
7 doesn't mention E-Bay, doesn't identify E-Bay. Says I work
8 in Jersey, and I take this train and I take that train.
9 Gives us a whole tour of the train station but never says,
10 yeah, I saw E-Bay on the night of the murder. I expected
11 that's why they called him as a witness, but he didn't say
12 it. So I'm not sure where that goes.

13 And I'll talk about the last murder, the murder of
14 Troy Singleton. They call him "Big Nose Troy." That's the
15 murder for hire. That's where the claim is made by Manny
16 Mosley and Alvin Smiley. And that's a short list because
17 Thor talked about it but obviously wasn't there. It
18 happened in Queens. And then we have Manny Mosley and we
19 have Alvin Smily who basically claim that they heard about
20 E-Bay and he is such a reliable shooter that this is a
21 completely different gang -- it's in Manhattan, has nothing
22 to do with Cash Money Brothers -- it's the Supreme McGriff
23 gang.

24 And they want to kill four people. That's
25 somebody -- Mr. McGriff wants to kill four people; Big Nose

SUMMATION BY MR. HERMAN

2906

1 Troy, E Money Bags, a guy named Homicide, different guy
2 named Homicide, and Green Eyed Born. That's the list of
3 people that they want to kill. No one seems to know why
4 they want to kill those people, but there is supposedly a
5 lot of money involved, like \$250,000.

6 So Manny Mosley comes in, who has pled to two of
7 the murders, who tells you quite candidly, you know, he is
8 cooperating. We go through that routine. That he had been
9 facing possibly the death penalty, but he is no longer
10 facing the death penalty. And he is going to be the connect
11 between Supreme McGriff and finding people to kill these
12 four individuals. And he finds for the -- to kill E Money
13 Bags, which has nothing to do with Aaron Granton, a guy
14 named Les, a guy named Broughton, TJ and Alvin. That's our
15 man, Alvin Smiley.

16 And he tells you about how they orchestrated that.
17 They have a fuzzy picture of E Money Bags. And they find E
18 Money Bags, and they shoot and they kill E Money Bags. So
19 that's done.

20 But Smiley doesn't get 250,000 or 100,000. He
21 gets, I think, like 5,000 or something, 4500 or something
22 for that. And then Smiley, I think that's when he goes up
23 to Maine, he gets arrested for something, false ID or
24 something, comes back to New York. He is now ready to do
25 another murder, that's what he says. It sounds kind of

SUMMATION BY MR. HERMAN

2907

1 unbelievable, but that's what Smiley says.

2 Now, Smiley, we want you to kill Big Nose Troy.
3 He has no idea who Big Nose Troy is or why Big Nose Troy is
4 being killed or set up to be killed. He knows he's not
5 going to get \$250,000. He knows that after the first
6 murder, one of the guys, I think it was TJ, didn't shoot so
7 there was some talk about killing TJ because he didn't do
8 what he was supposed to do.

9 And Alvin Smiley signs up for the second murder,
10 and he shows up and it's not the same crew. It's in guy
11 E-Bay. So he says E-Bay who he had never seen before.
12 E-Bay shows up, and there's a bag of guns and E-Bay is
13 giving out the guns. And it's nighttime. And we go out to
14 Queens, and we find out where Troy Singleton is, coming out
15 of a club or something.

16 And they go up to him and they have guns and they
17 shoot him. And E-Bay takes the bag of guns, and he takes
18 off. And he says them the next day, sees them in Manhattan
19 the next day. Hi, E-Bay; hi, Al, that's it.

20 Now, as extraordinary as that sounds, when Alvin
21 Smiley comes to court, he never identifies E-Bay as the guy
22 that he did the murder with. Now, no one has to identify
23 anyone; it's not required. He talked about E-Bay. You can
24 say that's E-Bay. But we sat here for weeks and the
25 cooperators came in. One of the first questions, how old

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2908

1 are you? Where do you live? Where did you grow up? Do you
2 see anybody you know? Yeah, I see E-Bay. He's got the blue
3 shirt on. He's got the kufi on. E-Bay. All right. That's
4 E-Bay.

5 Wouldn't you expect a guy who did a murder with
6 E-Bay, if he knew it was E-Bay, nobody else would come into
7 court and point him out, yeah, that's the guy. It was only
8 one night. I saw him the next day, and I remember we did a
9 murder together.

10 So what does that mean? He doesn't even know
11 E-Bay. He can't identify him. Can't pick him out. So was
12 E-Bay involved in that murder? Are you going to go by
13 Smiley? Smiley was the guy -- remember, Smiley was the
14 small-time drug dealer who used to deal crack cocaine, but
15 his customers would annoy him because they wouldn't pay him
16 and they'd bother him so he used to beat up his customers.

17 And then he decided I'm going to move on to
18 regular cocaine where people pay better and they're not so
19 unreliable. That was Smiley who shot one person and moves
20 on to become a serial killer facing a long time in federal
21 prison and wants you to believe that he committed a murder
22 with E-Bay and yet doesn't know who E-Bay is.

23 I'm almost done. You may be thinking after all
24 you've heard, after all these weeks, well, maybe he did it.
25 Maybe E-Bay is a hired hit man and maybe he killed these

SUMMATION BY MR. HERMAN

2909

1 people. Or possibly he did it. Or probably, he probably
2 did it.

3 Not good enough. It's not good enough because
4 we're not on the street and it's a court of law. And you
5 all took a very serious oath and this is an extremely
6 serious case for us, for Mr. Hardy, for the
7 United States government. Doesn't get more serious than
8 this case. And if you're at probably but you're not
9 convinced beyond a reasonable doubt, in other words, the
10 evidence or the lack of evidence or the inability to put the
11 pieces together, because this isn't a puzzle where you
12 already know whether you're going now, where the picture is
13 going to look like what you see on the outside of the puzzle
14 box, no.

15 Unless you want to trim the pieces and squeeze
16 them together, you put the pieces together. And if they
17 don't fit, if it doesn't work, if you can't resolve the
18 inconsistencies, the differences among the witnesses, if you
19 have doubts, if you have a reasonable doubt, then you have
20 to do something you may not want to do. You may have to
21 vote not guilty, even though you may feel in your heart, you
22 know, I heard all this evidence and I really don't know, it
23 sounds pretty bad. Of course. But that's not what your
24 oath is.

25 Your oath is to do justice, to listen, to follow

SUMMATION BY MR. HERMAN

2910

1 the facts wherever they go. And if you cannot resolve the
2 facts and you have that doubt, then you only have one
3 verdict which is a verdict I'm going to ask you to return,
4 which is not guilty of all charges. Thank you.

5 THE COURT: All right. Thank you, Mr. Herman.

6 Obviously, this is the proper time for us to
7 adjourn. Tomorrow we're going to start up promptly at
8 10:00. Mr. Ruhnke will be giving his summation on behalf of
9 his client. After that, Mr. Amatruda will be given the
10 opportunity to have rebuttal. I imagine that will be the
11 morning pretty much. Then I'm going to be explaining the
12 rest of the law to you. And depending upon how time breaks,
13 you'll either start your deliberations tomorrow or you'll do
14 it fresh on Monday.

15 Obviously, you realize that we don't have a
16 scientific laboratory so I can't predict exactly the time
17 this is going to happen. I'm very satisfied that we have
18 done very well in terms of adhering to the highest level of
19 professionalism on behalf of both lawyers -- all
20 lawyers -- which I really think is really commendable. They
21 have all and they will continue to be advocating zealously
22 for their clients, which is what their responsibility is.
23 And the timing is such that it's going to work out fine
24 because you'll have the case tomorrow. You'll have the
25 weekend intervening, and you'll be basically starting with

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1 deliberations either Monday fresh or to continue and just
2 start a little bit tomorrow afternoon. Depends on how
3 things break.

4 So we're at the end of the line pretty much,
5 aren't we? I want you to once again remember that you
6 now -- I don't want you to talk about anything you heard
7 with anybody here. You want to hear everything and you want
8 to hear the Judge's explanation of the law. And I suspect
9 you're going to have the weekend to have it all for you to
10 think about when you're home. You're not going to talk to
11 anybody about it, but it's certainly okay for you to think
12 about it. And you're going to have the charge. You're
13 going to have all the summations. Everything will be before
14 you.

15 So not a bad idea to have the weekend where you
16 can just reflect upon things privately. Not to share them
17 with anybody else, of course, you understand that. And keep
18 yourself flexible for next week because we don't know how
19 long deliberations will be, how short, how long. It's going
20 to depend on what happens during the course of your
21 deliberations, obviously.

22 I'm not going to let you take the charge home with
23 you. I don't want it to be out there. It's going to be
24 here. But you will have heard it all. You'll have the
25 benefit of it as a guide common or come late tomorrow

PROCEEDINGS

2912

1 afternoon. You'll keep it here. You'll be able to refer to
2 it if you need to do that.

3 I think that's about all I need to tell you. Get
4 a good night sleep. It's been a long day. You've been very
5 attentive. See you tomorrow at 10 o'clock.

6 THE COURTROOM DEPUTY: All rise.

7 (Jurors exit the courtroom.)

8 THE COURTROOM DEPUTY: You can all be seated.

9 THE COURT: Big day today and big day tomorrow.

10 Mr. Ruhnke, do you want to use this opportunity to
11 put on the record whatever you'd like to do in support of
12 your Rule 29 motion? It's up to you. If you're too tired,
13 you can do that another time.

14 MR. RUHNKE: There's a couple of -- I'll make the
15 motion generally as it applies to all counts of the
16 indictment that no jury, even given the government
17 inferences it is entitled to, could return a verdict of
18 guilty. I'll make that general motion.

19 And then more specifically, this is no RICO. This
20 is at best an allegation of a street gang. There's hardly
21 any continuity. There's hardly any structure. And people
22 come and go. And I know that people can come and go, but
23 there's testimony about, you know, the leader of the group
24 supposedly, my client, living off in Harlem. He is in New
25 Jersey with Lil' Kim. He is dealing drugs. People seem to

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1 be doing their own thing coming together occasionally.

2 So no RICO and no RICO conspiracy. And if that's
3 the case, no 1959 count either. And may even impact the
4 924(j) gun counts.

5 Regarding the murder of Johan Camitz, there is not
6 a transfer intent issue. It's an issue of foreseeability.
7 It's an issue of intervening cause. And while if -- you
8 take the situation that if Ivery Davis had been shot and his
9 car shot forward in a crowd of people, that's an easier
10 case. If Ivery Davis is driving around two days later and
11 the effects of the bullet cause him to die and he drives off
12 and kills a pedestrian, that's further removed.

13 And we're somehow in the middle of that, several
14 blocks away when the death occurs. It is an intervening
15 cause that he has taken off. Therefore, I don't think the
16 Johan Camitz charge should go to the jury either. And
17 that's my general outline.

18 THE COURT: Do you wish to say anything further
19 than that?

20 MR. RUHNKE: No, sir.

21 THE COURT: Does the government wish to be heard
22 at all?

23 MR. HERMAN: We join for the record.

24 THE COURT: You join as well. It's up to you.

25 MS. DAYANANDA: Judge, I think we made all the

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1 elements in summation. As you know, it was long. There's
2 no reason for the jury not to get the case based upon what's
3 been presented factually.

4 THE COURT: I agree. I think it's sufficient for
5 the case to be presented to the jury. I'll deny the 29
6 motion and leave it up to the jury to resolve all of these
7 different factual issues. I think that's about all we need
8 to do today.

9 (Brief pause.)

10 THE COURT: Mr. Innelli told me that alternate
11 number 3 is waiting in the back. He is not feeling well and
12 wonder if he can be excused. I think we can do that.
13 Obviously, we're not going to need the first two alternates.

14 MR. RUHNKE: I don't think so.

15 THE COURT: I'll talk to him and thank him. I'll
16 tell him not to talk about the case to anybody. Maybe I'll
17 invite him to my chambers.

18 Anything else we need to do today?

19 MS. BARRETT: Judge, in terms of the government's
20 requested charge that was submitted this morning at 9:00,
21 obviously we disagree with that requested charge. And I'm
22 going to cite a case actually.

23 THE COURT: I'm not going to give it.

24 MS. BARRETT: Then I will be quiet.

25 THE COURT: I really think I hammered it down when

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1 I told them not to speculate. I think I said enough during
2 my charge to not be concerned about inferences being drawn
3 or anything of that nature. I really feel that I covered it
4 extensively as a practical matter. I'm a little bit
5 hesitant to say anything that could possibly be interpreted
6 to be that the defendants had an obligation to call
7 witnesses.

8 But if you look over my charge that I gave to the
9 jury, that should give you some confidence that I really,
10 you know, scared the bejesus out of them not to speculate
11 about anything. So I think I'm satisfied with the substance
12 of that. And I would not have to inject the possibility
13 that this could be construed as placing a burden on the
14 defendant.

15 I haven't checked the Second Circuit on that
16 issue. Have you seen any Second Circuit case on that?

17 MS. BARRETT: Judge, there's an old case on a
18 related issue but not directly on point.

19 THE COURT: I'd rather err on the side of caution.
20 I'll see you tomorrow at 10:00.

21 (Time noted: 5:00 p.m.)

22 (Proceedings adjourned until Friday, April 24,
23 2015, at 10:00 a.m.)

24

25

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